Campus Safety Information and Statistics



Annual Security and Fire Safety Report 2026

Statistics for 2023, 2024, and 2025 Calendar Years

Published October 1, 2026

Edited November 12, 2026 (See appendix K)


UTICA
UNIVERSITY

Contents

Utica University Campus Safety and Crime Prevention 8

Mission Statement 8

Reporting Suspicious Activity or Criminal Behavior 8

Reporting Emergencies 9

Non-Emergency Reports and Requests for Assistance 9

Reporting Criminal Incidents to Other University Officials 11

Emergency Notification System 11

U-Alert 12

Emergency Notification Methods 14

How to Report a Missing Student 15

Emergency Response and Evacuation Procedures 16

Emergency Response 16

Evacuation 16

Timely Warning & Safety Notices 18

Safer-U Campus Safety Mobile App 20

Officers and Training 21

Campus Safety Services: 21

Standard Protocols 21

Authority, Jurisdiction, and Working Relationships with State and Local Law Enforcement Agencies 22

Programs and Information Available Relative to Campus Safety Policies and Procedures: 24

Off Campus Criminal Activity 25

Technology and Policy 27

Residence Halls 28

Student Health and Wellness Center 29

Alcohol and Illegal Drug Use and Possession 30

Drug Free Campus – Possession, Sale, and/or Use of Illegal Drugs, Alcohol, Weapons 30

Utica University's Drug and Alcohol Abuse Prevention Policy *31*
Standards of Conduct *31*
Legal Sanctions *31*
Driving While Intoxicated and Driving with Ability Impaired by Drugs *32*
Alcohol and Substance Abuse Prevention Program *32*
Student Conduct and Employee Disciplinary Sanctions *33*
Alcohol *33*
It is Unlawful in NY State *33*
Illegal Drugs *34*
Criminal Sanctions for Unlawful Use and Distribution of Alcohol in New York State ... *34*
Criminal Sanctions for Unlawful Use and Distribution of Drugs in New York State *35*
Controlled Substances *35*
Standards of Conduct *36*
Utica University's Code of Conduct for Employees *37*
Drug and Alcohol Abuse Prevention *37*
Health Risks *37*
University Weapons Policy *38*
Hazing *38*
Sexual Misconduct, Sexual Harassment, Sexual Assault, Dating and Domestic violence, and Stalking Educational Programming, Policies and Procedures *43*
Reporting Sexual Assault, Dating and Domestic Violence, and Stalking *43*
Utica University Policy on Sex Discrimination, Sexual Harassment and Sexual Misconduct *43*
Educational Programs and Campaigns *44*
Legal Definitions of Rape and Sexual Assault *45*
Other Sexual Offenses *45*
Definitions of Sexual Harassment, Dating/Domestic Violence, Sex Offenses *45*
New York Law 129-B Definition of Consent *47*
Utica University Definition of Affirmative Consent *47*
Suggestions for Staying Safe, Finding Support, and Preserving Evidence *48*

To Preserve Evidence: *49*

Policies & Procedures for Sex Discrimination, Sexual Harassment, and Sexual Misconduct *50*

Investigations and Disciplinary Proceedings *50*

Advisor of Choice *52*

Grievance Process Timeframe – Timeliness of Investigation *52*

Informal Complaint Resolution *52*

Investigation Findings *53*

Disciplinary Proceedings *53*

Student Responding Party *53*

Policies and Procedures for Complaints of Sex Discrimination, Sexual Harassment or Sexual Misconduct Between or Among Employees *54*

Vendor, Visitor or Other Non-Community Member *55*

Appeals *55*

Law Enforcement and Criminal Charges *56*

Amnesty *57*

Non – Retaliation *57*

Registered Sex Offender Information *58*

Programs to Prevent Dating Violence, Domestic Violence, Sexual Assault, and Stalking *58*

Training *59*

Confidentiality and Campus Security Authorities (CSA) *60*

Who is NOT a Campus Security Authority? *61*

Confidential Resources *61*

Non-Confidential Resources/Mandatory Reporters: University Personnel *63*

Third Party Reports: *64*

Reporting Party Request for Confidentiality *64*

Supportive Measures *66*

Pastoral and Professional Counselors *67*

Annual Disclosure of Crime Statistics *67*

Definition of Terms *69*

Appendix A – Annual Crime Statistics *73*

Appendix B: Annual Fire Statistics *85*

Appendix C: Fire Safety Systems *87*

Appendix D: Non-Discrimination Policy *89*

Appendix E: Sexual Harassment and Sexual Misconduct Policy (Current Policy) *90*

Appendix F: Sex Discrimination, Sex-Based Harassment, and Sexual Misconduct Policy (Vacated Policy) *132*

Appendix G: Pregnancy Policy (Vacated Policy) *166*

Appendix H: Title IX Policy (Vacated Policy) *170*

Appendix K: Edits for ASR *175*

Message from Kyle Wilson

Title IX and Clery Coordinator

On behalf of Utica University, welcome to our celebrated community.



We hope you will find the information in this report instructive and helpful. It is essential to the University that your experience at Utica University is safe and rewarding.

While we experience relatively low crime rates when compared with other colleges and universities, no campus is immune to criminal incidents.

Our Campus Safety team strives every day to minimize the potential for criminal behavior in and around our community. However, we can't do it alone. Safety is a shared responsibility, and we rely on our community to help create a safe and secure environment for everyone. We ask you to be an active member in your personal safety and that of the community, which begins by considering the following:

- ***Report suspicious activity or unsafe conditions to Campus Safety immediately.***
- ***Don't leave property unattended or unsecured.***
- ***Theft is the most common crime reported, and unattended items are an easy target.***
- ***Always lock your residence and car.***
- ***Don't leave valuables, including electronics visible inside a locked vehicle.***
- ***When walking in the evening, walk with a friend.***
- ***Download, familiarize yourself with, and use our campus Safer-U app.***

The mission of the Utica University Campus Safety Office is to provide professional safety services while working with faculty, staff, and students to reduce criminal opportunity and general safety concerns within our community. Utica University is committed to championing an environment where Diversity, Equity, Inclusion, and Belonging, cultural differences, and academic values are embraced. .

We hope that everyone in the campus community practices being an active bystander. If you see something concerning, say something and "Report It" to the appropriate campus authority.

Utica University Campus Safety and Crime Prevention

The University Campus Safety Department provides basic safety and security services to the Utica University main campus and satellite campuses within and outside the Utica area. The primary objective is to provide a safe campus for students, staff, faculty, and visitors.

Campus Safety Officers perform a variety of tasks that include investigation of criminal activity, identification of criminals, accident and fire response, traffic enforcement, and security for special events. Campus Safety, in conjunction with the Office of Emergency Management, also offers educational and informational programs to promoted awareness and improve the safety of the community.

Campus safety statistical information, as well as posters, brochures, and seminars on a variety of safety topics are available through the Office of Campus Safety. Campus Safety reports to the Vice President for Enrollment and the Student Experience.

Mission Statement

The mission of the Utica University Campus Safety Office is to provide professional safety services while working with faculty, staff, and students to reduce the potential for criminal opportunity and general safety concerns within our community. Our department is committed to championing an environment where diverse social, cultural, and academic values are encouraged. We embrace the values of professionalism, respect, integrity, dedication, and excellence.

"The Office of Emergency Management and Campus Safety converge to enhance the quality of life for students, faculty, and staff at Utica University by providing a safe and secure environment conducive to learning and consistent with the University's strategic goals." – OEM Assessment

Reporting Suspicious Activity or Criminal Behavior

Campus Safety strongly encourages students, employees, and visitors to promptly report criminal or suspicious activity, and other public safety related information to the Campus Safety office, an appropriate law enforcement agency, or other designated University official(s). Reporting should include situations where the victim of a crime either wishes to report the crime or if the victim is unable to report an incident. The intent of this statement is to balance empowering victims to make the decision about whether and when to report a crime and encourage members of the campus community to report crimes of which they are aware.

Promptly reporting criminal incidents, suspicious activity, and other emergencies and incidents to Campus Safety or other designated university officials, assists the university in issuing U-Alerts (emergency notifications) or Safety Notices (timely warnings), as required by the Clery Act, and including the incident in the university's annual crime statistics.

Utica University cannot overemphasize the importance of prompt and accurate reporting of criminal incidents. Timely reporting of a criminal incident provides police the best opportunity to apprehend a suspect and a greater opportunity for critical evidence to be collected. If a criminal incident is not reported quickly, evidence can be

destroyed and/or the potential to apprehend a suspect can be lost. Without accurate reports, investigative leads could be missed, and the investigation could proceed in the wrong direction.

Please try gather as much information about the incident as possible and report it to Campus Safety. Recalling when, where, who, and specific or identifiable description(s) are just a few of the questions you can expect to be asked. The subsequent investigation can only be as thorough as the information received. If you are the victim of a crime, or you have seen or received information of criminal activity, please contact Campus Safety immediately.

During times of high call volume, requests for assistance will be prioritized with emergencies relative to health and safety responded to first. The initial steps taken at the site of an emergency will be those necessary to safeguard lives and property, secure the scene, identify witnesses, and control bystanders who may be present. Campus Safety works to provide orderly and efficient coordination with all other agencies, departments, and organizations considered necessary and appropriate to the successful handling of incidents.

Blue light emergency telephones are in parking areas and along pedestrian walkways on the main campus. Calls placed from blue light emergency telephone transmit directly into the Campus Safety handheld duty radio. Blue light alerts are high priority and an Officer will answer. The location of the blue light emergency telephone from which the call has been placed is identified through the system. A Campus Safety Officer will respond to the location of the blue light emergency telephone. All campus building entrances and elevators also have emergency phones with direct lines to the Campus Safety Office.

Reporting Emergencies

Campus Safety can be contacted at ***611*** *(from a campus phone) or* ***315.792.3046*** *(from an off-campus phone or cell phone)* to report criminal activity, suspicious activity, or other emergencies, whether on or off campus. All 611 calls placed on campus telephones are routed directly to the Office of Campus Safety.

Students and employees are encouraged to notify Campus Safety or call ***911*** of any situation or incidents that involves a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus. Emergencies can also be reported by messaging Campus Safety through the Safer-U app.

Dial ***911*** *to contact the Oneida County Emergency Operations Center for response from local Law Enforcement or Emergency Medical Services.*

Non-Emergency Reports and Requests for Assistance

To report criminal incidents, suspicious activity, or other incidents that are not emergencies:

- *Call* ***611*** *(from a campus phone) or* ***315.792.3046*** *(from an off-campus phone or cell phone) Campus Safety operates 24/7 with an Officer available to always take information; or*

- *Report in person at* ***Campus Safety Office, Strebel Student Center, 1600 Burrstone Rd., Utica, NY 13502****. For general questions or other inquiries, you may send Campus Safety an e-mail at* ***safety@utica.edu*** *This account is frequently checked, but not continuously monitored.*

Reports of Clery Act crimes filed through a Campus Security Authority (CSA), as defined by the Clery Act, provided to the Clery Coordinator or designee will be included in the university's annual crime statistics published in the Annual Security and Fire Safety Report. All statistics enclosed in the Annual Security and Fire Safety Report are anonymous. CSA reports have the option to include the victim's name or initials for tracking purposes and to ensure the victim is offered the proper services. However, if you wish to remain anonymous, your personal information does not have to be disclosed. CSA reports of sexual assault, domestic violence, dating violence, stalking, sexual exploitation, and retaliation to the Clery Coordinator or designee will also be made available to the university's Title IX Coordinator. Reporting a Clery Act crime allows the Clery Coordinator or designee to keep an accurate record of specific criminal incidents, and the ability to notify the campus community of potential danger. If you are a Campus Security Authority, you may report Clery reportable incidents at: https://www.utica.edu/forms/csa-report/index.cfm?action=form

Utica University maintains a **Daily Crime and Activity Report Blotter** of all crime and other incidents reported to Campus Safety. The DC/AR Blotter is available for review upon request. Any crime or incident that is reported on campus is identified and categorized for compilation reporting, in accordance with the law. The reports include the date, time, location and disposition of the crime or request for assistance. Although most events are placed in the blotter, Campus Safety may determine certain information to be confidential and not place it in the blotter. This will occur if there is a concern that inclusion may compromise a criminal investigation or improperly identify a victim. The Office of Campus Safety keeps mandated records for reporting specific crimes in compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. These records are categorized and provided annually in the Campus Safety Information and Statistics Report.

Reporting Criminal Incidents to Other University Officials

As an alternative to reporting a criminal incident to Campus Safety criminal or suspicious activity, or other non-emergency incidents can be reported to the following who can assist with timely warning reports and annual statistical disclosure:

Vice President for Enrollment Management and Student Experience Jennifer Adams jradams1@utica.edu	**Title IX Coordinator** Kyle Wilson Office of Human Resources (315) 792-3063 klwilson@utica.edu	**Deputy Title IX Coordinator** Kristin St. Hilaire Director of Athletics (315) 792-3050 kmsthila@utica.edu
Director of Student Conduct and Community Standards Carl Lohman (315)792.3363 calohman@utica.edu	**Vice President of Human Resources** Kristin Phelps (315)792-3024 kphelps@utica.edu	**Executive Director Student Health and Wellness** Ariel Rios (315)792-3428 Alrios1@utica.edu
Director of Victim Advocacy & Violence Prevention Alicia Reed (315)792-3094 acreed@utica.edu	**Campus Victims Resource (Non-Confidential)** Bethany VanBenschoten (315)792-5294 bavavben@utica.edu	**Associate Athletic Director** Jim Murnane (315)792-3281 jmurnan@utica.edu
	Director of Campus Safety **Jay LaFayette** (315) 792-3046 jjlafaye@utica.edu	

To report criminal incidents, suspicious activity, or other incidents that are not emergencies that occur off campus in the City of Utica individuals also may contact:

Utica Police Department
(within city limits):
413 Oriskany S. W
Utica, NY 13501
(315)735-3301

Oneida County Sheriff's Office
(within Oneida County)
6065 Judd Rd.,
Oriskany, NY 13424
(315) 736-8634

Emergency Notification System

The university will immediately notify the campus community upon confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus. The university utilizes multiple methods to notify the campus community of emergency situations including the use of electronic and cellular communication.

Confirming the Existence of a Significant Emergency or Dangerous Situation

As stated above, the university will immediately notify the campus community upon confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus. Examples of situations in which an emergency notification is likely to be issued include: a building fire; a hazardous material spill/leak impacting a large area; severe weather-related threat; or an active shooter.

As used in this section, "confirmation" generally means that the university has verified that a legitimate emergency or dangerous situation exists involving an immediate threat to the health or safety of students or employees occurring on the campus. The Vice President for Enrollment and the Student Experience is the primary person who determines whether such a situation exists; however, the University President, Provost, or Director of Campus Safety could also make such a determination. In the process of verifying whether such a situation exists, those persons may rely on information received from witnesses, first responders, university departments/units, and entities outside of Campus Safety with information relevant to the situation including, but not limited to: the Utica Police Department; the Oneida County Sheriff's Office; The New York State Police; the Utica Fire Department; the National Weather Service; and personnel from the university's Environmental Health and Safety and Facilities Services departments. So that there is no undue delay in notification, confirmation does not necessarily mean that all pertinent details about the situation are known or even available.

U-Alert

U-Alert is one of the primary methods of notifying the campus community about serious emergencies, ongoing situations or disruptions to normal operations on campus in a timely manner.

Registration for U-Alert is automatic for students and Utica University faculty/staff members - All students and working faculty/staff members at Utica are automatically subscribed to the system.

Although you are automatically enrolled in Utica Alert, we advise ALL members of the campus community to verify the contact information used by Utica Alert. The information we have for you may be incomplete, out of date, or incorrect. If the information is outdated/incorrect please update it using the "edit" feature. As an extra measure of security, you can test the alert system using the yellow "test" button.

Please take the following steps to ensure you receive important emergency notifications and timely updates from Utica University, most importantly, your cell phone number.

What to do:

- Navigate to this link: https://bannerweb.utica.edu/ssb9/BannerGeneralSsb/
- Click on "Personal Information".
- In the third box, verify if there is a Cellular/Mobile phone number listed.
- If not, click "+ Add New" on the right side of the box.
- Select "Cellular/Mobile as the Phone Type.
- Input your phone information.
- Click add.

If you encounter issues, please contact the IITS Help Desk at www.utica.edu/help

The U-Alert emergency notification method is tested during the spring and fall semesters each year through a published announcement and full activation. Each test includes a campaign to encourage the campus community to

register for text alerts and to download the campus safety app. Blue light phones and public address system are tested by activating units monthly on a rotational basis with all units being tested annually.

Emergency Notification Methods

Emergency notifications to the larger community may be sent using some or all the following methods, based upon the situation and availability:

Notification Method	Uses	Types of Warnings	Content Administrator
U-Alert Text (SMS) Message, Email, App	Campus-wide emergency requiring immediate action	Text messages, Email, and App	Office of Emergency Management (OEM)
Blue Light Phones, Stadium speakers, Fire alarms	Campus-wide emergency requiring immediate action	PA system	OEM & Campus Safety
U-Alert Email	Emergency Information	Email / App	Communications & Marketing
U-Alert Emergency Website (Homepage)	Provide additional information	Web-based	Communications & Marketing
Digital Signage	Campus-wide Emergency	RSS feed	OEM & IITS Department
NOAA Weather Radio & Wireless Emergency Alerts	National, state, and local hazards	Voice and tone	National Weather Service & TEMA
Social media	Issue emergency statements	"X" (Twitter), Instagram, and Facebook	Communications & Marketing
Local Media	Issue emergency statements	Radio, TV, web & print	Communications & Marketing

Issuing an emergency notification provides accurate information as quickly as possible enabling the campus community to take precautions in the event of an emergency or dangerous situation. Not every individual will be reached; thus, the campus community is asked to spread emergency notification information to others.

Information pertaining to an emergency or dangerous situation that exceeds the boundaries of the University campus typically is provided by local media outlets. In the event the University needs to provide information to the public outside the University community, the Office of Communication and Marketing determines the content of the information that is provided.

How to Report a Missing Student

All students who reside on campus have the option to identify an individual to be contacted by Utica University within twenty-four (24) hours after it has been determined the student is missing. Students may register the confidential contact information by contacting the Office of Campus Safety or the Office of Student Living and filling out an electronic Missing Student Confidential Contact Information Form. This form will also be emailed to residential students at the beginning of each academic term to request voluntary response submission. Confidential contact information will be accessible only to authorized campus officials and law enforcement, as appropriate.



If someone has any reason to believe a student is missing, he or she should contact the Office of Campus Safety at (315) 792-3046 immediately. Utica University has established notification procedures to determine if a student is missing. Campus Safety will report the information to the Director of Campus Safety who is responsible for informing the University President and appropriate offices including the Vice President of Enrollment and the Student Experience.

If it is determined a student has been missing, Utica University will notify the appropriate law enforcement agency, and the confidential contact identified by the student no later than 24 hours after the determination is made. In addition, if the missing student is under the age of 18 and is not an emancipated individual, the Vice President of Enrollment and the Student Experience or their designee is required to notify a custodial parent or guardian no later than 24 hours after the time that the student is determined to be missing.

No later than 24 hours after determining a student is missing, the Director of Campus Safety or their designee will notify the following University officials:

- University President
- Provost and Senior Vice President for Academic Affairs
- Vice President for Marketing and Communications
- Vice President of Enrollment and the Student Experience

Emergency Response and Evacuation Procedures

The Clery Act requires the University to have and disclose the following emergency response and evacuation procedures, which the University will follow in response to a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus.

Emergency Response

A crime or emergency can be reported at any time. The Office of Campus Safety will respond to and investigate all reports of emergencies. In the event a crime has occurred, law enforcement will be contacted in accordance with mandated reporting procedures. If it is determined the crime may cause a dangerous or an emergency on campus, the Utica University Campus Emergency Management Team (CEMT) will be notified, and the community will be alerted pursuant to the Utica University Campus Emergency Management Plan.

The Campus Emergency Management Plan (CEMP) is updated annually and available on the University website for viewing in redacted format. It can be viewed at the following: Campus Emergency Management Plan

The CEMP provides information on how the University will prepare and organize to respond to emergencies. The plan provides detailed guidance on roles and responsibilities for emergency response personnel and guidance for business continuity and emergency action planning. The CEMP is administered by the university's **Office of Emergency Management** following the principles of the National Incident Management System.

The CEMP conducts training to test and evaluate the CEMP and to improve the skills of the university personnel assigned emergency management responsibilities. The training includes an exercise that is designed to progress from training and workshops to a tabletop exercise and culminate in a full-scale exercise. Multiple training and exercises are conducted in addition to the campus exercises to include participation with local, state, and federal agency efforts. The university documents a description of the exercise activity, the date the test was held, the time.

Campus Safety officers and various campus administrators have received training on incident command and responding to critical incidents on campus. The university works in conjunction with a variety of local, state, and federal agencies to respond to any type of incident impacting our campus.

"Utica University remains at the forefront of emergency preparedness through a commitment to training and awareness. The University's dedication to safety and security is demonstrated by the close relationships developed with federal, state, and local law enforcement, emergency medical services, and other first responder groups. The University has worked diligently with these groups to develop familiarity with the physical campus and the Campus Emergency Response Plan and those members of the CEMT." – VP OEM

Evacuation

Evacuation drills are conducted regularly in university buildings on a schedule based on the occupancy and functionality of the building. The purpose of the evacuation drill is to prepare building occupants for an organized evacuation in case of fire or another emergency. Drills are used as practice and to familiarize students, faculty, and staff with exit locations and assembly areas and educate them on emergency procedures.

- Documentation of university building evacuation/fire drills is maintained by Campus Safety.

Key performance measures are established, evaluated, and feedback is provided to the building occupants. A record of conducted drills is available upon request from Campus Safety.

The university maintains a plan for a campus-wide evacuation, which includes multiple methods of transporting the campus population, depending on the nature of the emergency, to a safe off campus location. Directions will be provided via the campus' emergency notification system.

Sheltering inside a building is often the safest action depending on the emergency, such as extreme weather events, hazardous materials release, or aggressive deadly behavior. The campus community may be told to seek shelter via U-Alert message at which time they should proceed to the best available shelter in the building they are in.

Detailed instructions are available on the University website or on the Safer-U app. Individuals should know the basic characteristics of good shelter so they can respond properly when informed of an emergency. More information on what to do during an emergency is available on the University website or on the Safer-U app.

Basic shelter in place guidance

- If you are inside when directed to seek shelter, find the best available shelter in that building. If you are outdoors, proceed to the closest building as quickly as possible. Continue to monitor campus communications and do not exit unless directed by competent authority.

- For sheltering from severe weather or other threats to the building's integrity, you should seek an interior room as low in the building as possible, preferably with no windows.

- For sheltering from hazardous materials release, seek shelter on an above ground floor and shut off ventilation and air handling systems and use available materials to seal windows and doors.

- The reaction to an active shooter event depends on your physical location to the threat. Barricading in a room is a form of sheltering and the proper response to an active shooter alert for most of the campus.

Timely Warning & Safety Notices



Timely Warning (Safety Notice)

A timely warning, in the form of a **Safety Notice**, will be disseminated utilizing method(s) likely to reach members of the affected campus community when the reported incident is a Clery Act crime which:

1. is reported to Campus Safety or the Clery Coordinator directly or reported to Campus Safety or Clery Coordinator indirectly through a university campus security authority or a local law enforcement authority.

2. occurs on the university's Clery geography (i.e., on campus, in or on a non-campus building or property in use or controlled by the university, or on public property immediately adjacent to the university); AND

3. is considered by the institution to represent a serious or continuing threat to university students and employees, or their property.

A Safety Notice will be issued in a manner which: (1) is timely (i.e., as soon as the pertinent information is available); (2) does not disclose the name or other identifying information about the victim, as defined in 42 U.S.C. § 13925(a)(18); and (3) will aid in the prevention of similar crimes.

A Safety Notice will contain pertinent information about the incident to enable persons to protect themselves or their property and aid in the prevention of similar crimes. Such information generally could include: (1) a brief description of the incident; (2) the general location, date, and time of the incident; (3) a description of the suspect, if a sufficient amount of detail is known about the suspect, which may include a composite drawing or photograph of the suspect; (4) a description of injuries or the use of force, if relevant; (5) a description of the incident's possible connection to other incidents; (6) suggested measures that university students and employees can take to help protect themselves or their property; and (7) contact information and other instructions for the campus community. Safety Notices will not include information that, in the judgment of

the Vice President for Enrollment and the Student Experience or Director of Campus Safety or their designee, would compromise law enforcement efforts.

The decision whether to issue a Safety Notice is made by the Vice President for Enrollment and the Student Experience, or their designee on a case-by-case basis considering all the facts known concerning the crime, such as the nature of the crime and whether university students and employees are at risk of becoming victims of a similar crime. Typically, the Vice President for Enrollment and the Student Experience or their designee will follow a timely warning matrix checklist and may consult with other departments to help determine if a threat to campus safety exists. The apprehension of the alleged perpetrator typically removes the risk to university students and employees.

The university typically does not issue a Safety Notice for an incident for which a report was filed more than five days after the alleged incident.

The Clery Act does not require the university to issue a Safety Notice for:

1. a Clery Act crime that occurs outside of university Clery Geography; or
2. for a crime that is not a Clery Act crime, even if that crime occurs on the university's Clery Geography.

However, the Vice President for Enrollment and the Student Experience and Director of Campus Safety, or their designee may, at their discretion, issue a Safety Notice for a crime for which the Clery Act does not require the university to issue a Safety Notice.

Safety Notices are typically written by the Vice President for Enrollment and the Student Experience or their designee and reviewed by the Chief Communications Officer or their designee for review. Upon final approval, the timely warning is distributed to the University Community via U-Alert accounts (e.g., students, faculty, and staff) through email and text message by the Vice President of Marketing and Communications or their designee. Safety Notices may also be distributed through the university's Clery website and University social media accounts (e.g., Facebook, Instagram, and "X" [Twitter], including the Safer-U app.

If there is an immediate threat to the health or safety of students or employees occurring on campus, the University will follow its Emergency Response and Evacuation Procedures which includes emergency notification. No Safety Notice based on the same circumstance will be issued. However, follow-up information will be disseminated to the campus community as needed. The University will provide follow-up information via U-Alert. Follow-up information may include status of incident, all clear, situation awareness, university response, and additional safety tips and information.

Safer-U Campus Safety Mobile App

Help is at your fingertips! Turn your phone into a personal safety device with the **Safer-U** App. The **Safer-U** Mobile App is a free download available to students, employees, and visitors to the Utica University campus. **Safer-U** offers a variety of tools and safety features such as the ability to send tips and incidents to Campus Safety and other departments on campus. Other features include the Friend Walk application to ensure friends arrive at their destination safely, as well as easy to access campus and local resources. Download and install the app from the Google Play (https://play.google.com/store/apps/details?id=com.cutcom.apparmor.utica) or iPhone AppStore (https://apps.apple.com/us/app/safer-u/id6447651887).



Officers and Training

University Campus Safety Officers are certified through NY State as security officers. Officers complete a minimum of 40 hours of in-service training each year. Additional training includes such topics as:

Information triaging	*Weapon Identification*	*Legal Updates*
International Student Cultural Sensitivity	*Fire Safety*	*Rape Crisis*
Crime Prevention	*Investigations*	*Basic First Aid*
Crime Scene Handling	*Officer Wellness*	*Mandated Reporting*
Evidence Handling	*Crisis Intervention*	*Traffic and pedestrian Safety*
Mental Health	*Alcohol and Illegal Drug Recognition*	*CPR and Basic medical care*
LEO workshops	*Ethics*	*Interviewing (Information)*
Public Assembly Strategies	*De-Escalation*	*Report Writing*



Campus Safety Services:

- Safety Officers perform general safety monitoring by performing physical safety checks of the entire campus and satellite locations daily.
- Residential room unlocks and vehicle assistance, traffic control, general building security, and other duties as assigned.
- Daily enforcement of traffic safety and increased presence during special events (for example, all sporting events, Homecoming, concerts, etc.)
- Emergency response to incidents and requests for assistance, monitor security cameras, intrusion alarms, fire and environmental alarms.
- Campus Safety also maintains a webpage, https://www.utica.edu/directory/campus-safety, and a social media account on X (formerly Twitter), https://x.com/uticausafety, which provide safety and security information to the university community.

Standard Protocols

- A comprehensive set of formal goals and directives.
- Identified structure for providing information and analysis to University Leadership
- Familiarization with emergency preparedness and business continuity plans

- Continuously developing and improving the Campus Safety relationship with the entire community.
- Promoting accountability, both within the agency and within the community.
- Mitigation of liability risk(s) to the University wherever possible from the perspective of safety, security, and relationship building.
- Pursuit of professional excellence and service to the University community.

In June 2022, Campus Safety Officers and Supervisors became direct-hire employees of Utica University, ending a third-party service agreement for security services on the campus. This decision has created a Campus Safety team that is deeply invested in the community. It has also increased training opportunities leading to improved community relations.

Authority, Jurisdiction, and Working Relationships with State and Local Law Enforcement Agencies

The Office of Campus Safety is responsible for enforcing the rules and regulations of Utica University and maintaining the overall security posture of the campus. Utica University maintains a staff of full and part-time Campus Safety Officers providing security coverage 24 hours a day, 7 days a week. Officers are licensed security guards through the State of New York and have received all required training in compliance with the licensing procedure. For large events, University safety officers are supplemented by local police as needed.



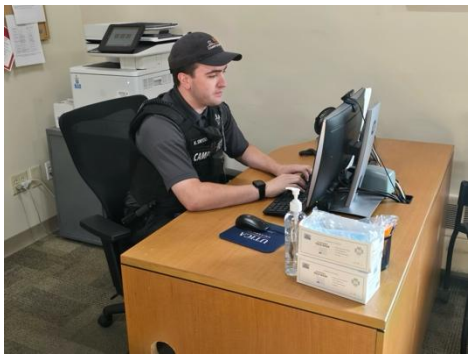
Campus Safety officers are expected to enforce University regulations and policies. They are trained in general security procedures and New York State law by means of departmental directives and in-service training. Through local shared law enforcement information and daily briefings, officers are informed of criminal activity in the surrounding area that may affect the safety and security of the University community.

University Campus Safety officers are not sworn law enforcement officers and do not carry firearms.

Officers are empowered by the University to detain students, employees, and visitors. Campus Safety Officers can file criminal complaints when working closely with local police agencies to prevent and investigate criminal activity. The Vice President for Enrollment and the Student Experience and the Director of Campus Safety maintain relationships with local police agencies. In addition, both offices routinely assist local law enforcement agencies with investigations involving on-campus and off-campus offenses.

All Campus Safety Officers submit written reports of crimes and calls for service to the Director and shift supervisors, as they occur. If not previously reported, the Director will notify appropriate police agencies, as permitted by law. All incident reports or crimes involving students are reported to the Division of Enrollment and the Student Experience. Incidents occurring in the residence halls are reported to the Office of Student Living and the Division of Enrollment and the Student Experience. Incidents that may be Title IX violations are reported to the Title IX Coordinator.

Directions and information regarding how to report a crime or other concern are found in the University Student Handbook, Employee Handbook, digital media outlets, notices in various University operated social media platforms, as well as articles in the student newspaper. The campus community is urged to report crimes to the Office of Campus Safety and/or the local police immediately.



Officers are authorized to perform their duties at all facilities and property owned, leased or operated by the University, including any public roads or rights-of-way which are contiguous to, within the perimeter of or connect between such facilities, property, or interests of the University.

Campus Safety Officers may enforce any parking or traffic regulation and detain an individual for criminal offenses that occur in their presence on property owned or controlled by Utica University. Officers may also enforce ordinances of the City of Utica and Utica University on University property.

In general, each Officer shall, in all cases, use every option available that is consistent with the accomplishment of his/her mission, and shall exhaust every reasonable means of detainment when necessary. Local law enforcement will be contacted in every instance of an occurrence of a reported crime.

Campus Safety patrols the university main campus and its surrounding areas 24 hours a day, 365 days a year. These patrols include vehicle patrols, as well as golf carts, and foot patrols when weather permits or need arises. Patrol responsibilities include all building and facilities checks for suspicious activity or for anyone in need of assistance. Campus Safety also provides security for athletic events and other functions.

All crimes reported to Campus Safety are investigated and referred for prosecution through local law enforcement or the District Attorney when appropriate. Criminal matters involving students may also be referred to the appropriate administrative office (e.g., Office of Student Conduct and Community Standards) for disciplinary action.

As stated, Campus Safety maintains a close working relationship with the Utica Police Department, and other local law enforcement agencies. Typically, Campus Safety will meet with local law enforcement agencies for the planning of large events on campus such as home football games and the annual Heart Run and Walk Expo. Due to the size and nature of these events, local law enforcement will be contracted with to assist. The police officers provide additional support for purposes related to security and traffic.



Programs and Information Available Relative to Campus Safety Policies and Procedures:

Campus Safety provides a weekly activity report that is published in the Tangerine, the Utica University weekly student newspaper. The report tracks all incidents and calls for assistance received each week from the community. Throughout the calendar year the Office Emergency Management, Student Living, Student Involvement and Leadership Office (SILO), Counseling Center, Coordinated Community Response Team (CCRT), Title IX, and the Division of Enrollment and the Student Experience provide safety and security programming and informational sessions to the entire community.

Personal safety awareness, sexual misconduct prevention, burglary prevention, and fire safety seminars are available to all students and employees at the University. This includes a variety of educational programs addressing issues of sexual and relationship violence throughout the academic year presented by the Coordinated Community Response Team (CCRT) and affiliated clubs and organizations.

Fire Safety: Coordinated effort with Student Living Staff, Campus Safety, and local Fire Department to explain fire safety rules and the related University conduct policy.

Situational Awareness and Personal Safety: A simple approach with realistic safety tips. Optional overview of self-defense devices can be included.

Alcohol Awareness: This program addresses the dangers associated with excessive drinking and brings awareness to hazards of driving while impaired. “Fatal Vision” goggles are used to demonstrate vision and coordination impairment. This can also be used in conjunction with the Wii gaming system to simulate driving while impaired.

Sexual Assault Awareness: Discussions of awareness, prevention, avoidance, and effective communication regarding non-stranger rape. Information regarding available counseling is also provided.

Social Media Safety: With an increased use of social media in our daily lives, it’s important to understand the amount of information we put out there about ourselves and how to limit/protect that information.

Substance Abuse: This program discusses the dangers of drug abuse, as well as the abuse of prescription medication. The course also highlights the misconceptions students may have concerning drug use.

Spring Break Information: Safety program geared towards travel and personal safety. Situational awareness and the understanding alcohol and drugs while traveling is also discussed.

Workplace Violence: Information regarding the escalating problem of violence in the workplace. Identification of characteristics of potentially violent individuals, as well as prevention and avoidance strategies.

Aggressive Deadly Behavior and Active Shooter: One of the most frightening situations that can occur on a college campus is dealing with an active shooter. An active shooter is a person who is actively threatening lives or prepared to threaten lives in a populated area. This program focuses on how to deal with a potential active shooter situation. The course gives information on past occurrences, warning signs, and what to do if a shooting occurs in your immediate area.

Other Campus Safety crime prevention and security awareness programs include:

U-Alert & Safer-U Promotion: Campus Safety creates messaging and provides information to encourage students, faculty, and staff to download and use the **Safer-U app**

Crime Prevention through Environmental Design: Campus Safety works closely with facilities to improve safety posture of buildings based on the design and environmental conditions. Security surveys are completed upon request.

Off Campus Criminal Activity

The Clery Act requires the university to include in this report a statement of policy concerning the monitoring and recording of criminal activity in non-campus locations occupied by student(s) or student organizations through local police agencies. The policy is specific to students and student organizations residing in non-campus housing facilities.

At the request of law enforcement, criminal activity at non-campus locations, Campus Safety will assist with the investigation of student-involved incidents. If law enforcement receives a report about criminal activity occurring off campus involving University students, law enforcement may notify Campus Safety, however there is no policy requiring such notification. Students in those cases may be subject to arrest as well as university disciplinary procedures. In the event of the arrest of a Utica University student, Law Enforcement will notify Campus Safety. Law Enforcement may delay or forego a notification when, in the sole determination of the investigating agency, notification might hinder, interfere with, or otherwise jeopardize an ongoing investigation or prosecution.

The Office of Campus Safety maintains a close working relationship with local police agencies, including the following:

- City of Utica PD
- Town of New Hartford PD
- Village of Yorkville PD
- Village of New York Mills PD
- Oneida County Sheriff's Department
- Syracuse Police Department (Liverpool, NY)
    - Syracuse operations shifted to the Utica University Main Campus in February 2025.
- Town of Colonie Police Department (Latham, NY)
- NY State Police
- St. Petersburg City Police Department (FL)
    - Utica University operations concluded at the St. Petersburgh campus in August 2026.

- Miramar City Police Department (FL)
    - Utica University operations concluded at the Miramar campus in August 2023.

As part of this working relationship, criminal activity occurring on campus is reported to these agencies. Through frequent contacts with the agencies, off-campus criminal activities and violations of penal law are also monitored by the Office of Campus Safety. Particularly, those incidents or activities where Utica University students are routinely present at off-campus locations.



Security and Access to Campus Facilities

Technology and Policy

Security cameras and supporting technology have been installed throughout the campus including within residence halls, academic buildings, community spaces, and exterior locations such as parking lots and roadways. The Director of Campus Safety and VP for IITS are responsible for overseeing the implementation and revisions of surveillance procedures including approval of camera placement. Campus Safety has the authority to select, coordinate, operate, manage, and monitor all campus video surveillance equipment pursuant to this policy. All residence halls have camera coverage. Camera coverage in other buildings, garages, or areas are based upon physical security standards or requested security assessment.

All buildings on the main campus and satellite campuses are equipped with access control. Campus community members must present a valid University ID Card to gain entry. Access is only provided to the specific buildings that community members are authorized to enter. Academic buildings are always secured using electronic access control and mechanical key override. Buildings are accessible with proper ID credential permissions 24 hours a day, by students or employees. Individuals who are not members of the University Community must be accompanied by a credentialed University representative when on the University campus or inside a university owned/operated building. All buildings are routinely checked throughout the day as well as “after normal business hours” by Campus Safety Officers. Main campus and satellite campus locations are also monitored by internal and external surveillance cameras.

Residence halls are always secured requiring students and authorized staff/faculty to use a University ID for access. Students are permitted access only to the specific residence hall they reside in. Additionally, Campus Safety Officers conduct routine checks of residence halls throughout the day (24hours). Full-time professional staff identified as Assistant Directors (AD’s) provide oversight to specific residence halls assigned to them. Assistant Directors oversee a staff of trained Student Living/Student Staff employees (Resident Assistants and Operation Coordinators) that are also continuously available while students reside on campus. Student Living/Student Staff employees have on-call duties to supplement coverage.

As part of their regular duties, Student Living/Student Staff employees are empowered by the University to enforce regulations, observe potential violations of the Code of Student Conduct, and report them accordingly. Student Living/Student Staff employees also assist with front desk duties at each residence hall. Students living in the residence halls should register their guests through an Online Form (https://forms.cloud.microsoft/Pages/ResponsePage.aspx?id=fhRYhp6_m0mKR9gdkIieDhcE3PUBTWBNlA4KIH3XhsxUOTNVUFhKWlNNUFhFR1pJMTcwTzZTVVZKQyQlQCN0PWcu). Off-campus guests are required to be escorted by the residential student they are visiting.

The Office of Campus Safety works closely with departments and employees including but not limited to the Environmental Health and Conservation, IITS, and the Office of Facilities Management to identify and correct potentially hazardous conditions.

Residence Halls



Residence Hall lobby desks are staffed by Student Living Staff personnel from 8pm-11pm on weekdays and 8pm-2am on weekends. During periods of visitation, all visitors must be escorted by their hosts in nonpublic areas of the residence hall. Residence hall students may have overnight guests only if prior arrangements have been made with the roommate(s). The maximum length of any visit is three days and three nights. All guests are governed by university and residence hall regulations, and it is the host's responsibility to make guests aware of those rules. In cases where the guest is in violation of university regulations, disciplinary action may be brought against the host. During their stay, guests may be asked to provide identification.

All maintenance and service personnel are required to wear identification badges while in the residence hall. Deliveries may not be made directly to residence hall rooms.



All exterior doors in residence halls are locked to limit entrance to the hall. During nightly hall patrols, all exterior doors are checked to ensure that they are secure. In addition, security cameras have been installed in all residence halls, allowing staff to monitor exterior doors. Door access ID card readers have been installed at exterior access points and interior access points leading to residential areas within the halls.

Students and authorized Faculty and Staff are required to present a University ID card to gain access into a building or living area. All buildings on campus are equipped with fire alarm systems, while all rooms within residence halls have smoke/heat detection systems and sprinkler systems located in each room and all common areas in accordance with the National Fire Protection Association (NFPA). All buildings are wired to sound an alarm in a central monitoring station in Campus Safety and the Oneida County 911 Center. Evacuation drills are conducted each term.



Residence hall room doors (with the exception of Pioneer Village) are equipped with mechanical keys. If a key is lost or misplaced, the room's lock core is replaced, and new keys are issued. Residents are urged to keep their doors locked at all times. During periodic inspections, residence hall staff remind students to lock their doors. Pioneer Village doors are equipped with key fobs. These doors always remain locked, and a key fob must be used to unlock the door. If the key fob is lost, access can be removed from the system, and the key fob will no longer work. The student is then issued a new key fob.

At the beginning of each semester, floor meetings are held to discuss safety and security issues. Educational programs are presented periodically within residence halls to increase student awareness of safety and the steps they may take to improve their personal safety.

Student Health and Wellness Center

The Student Health and Wellness Center strives to improve the health and well-being of our campus through evidence-informed strategies. Health and Wellness works to empower all Pioneers to make informed decisions about their wellbeing and adopt lasting healthy behaviors. Through advocacy and collaboration, we work to develop an environment that supports the community's decisions.

Based on data collected from our campus-wide assessments, campus feedback surveys, and national research, the Health and Wellness Center develops campaigns and initiatives to address the needs of our campus community. All Health and Wellness Center programs and events are free to Utica students and employees.



Alcohol and Illegal Drug Use and Possession

This section of the report provides information on the University's policies regarding the possession, use, and sale of alcoholic beverages and enforcement of NY State's underage drinking laws. The section also provides information on the University's policies regarding possession, use, and sale of illegal drugs and enforcement of federal and NY State drug laws and a description of the University's drug and alcohol abuse prevention programs.

Drug Free Campus – Possession, Sale, and/or Use of Illegal Drugs, Alcohol, Weapons

Utica University prohibits the unlawful possession, use, distribution, sale or dispensing of drugs and alcohol by Utica University students, employees, visitors or contracted individuals and entities at all Utica University Campus locations including spaces owned or operated by the University or being used as part of university sponsored activities. Campus Safety personnel enforce University policies and regulations regarding underage possession and consumption of alcoholic beverages, illegal drugs, and weapons. No alcoholic beverages are allowed in common areas of the University such as residence hall lounges or campus grounds. Students of legal drinking age may have alcoholic beverages in their residence hall rooms if possession and use are consistent with the New York state law and University regulations.

Student organizations may request permission from the Vice President of Enrollment and the Student Experience to hold an event where alcohol is served. At these events, sponsoring organizations must comply with the New York State Alcoholic Beverage Control Laws. The frequency of these events is controlled by the Division of Enrollment and the Student Experience.

Illegal drugs are not permitted on campus; possession and use of drugs may result in arrest and/or disciplinary action. Violations of the New York State Alcoholic Beverage Laws and New York State drug laws may result in arrest and/or discipline through the Code of Student Conduct Program.

Utica University makes available to all students and employees of the University a substance abuse prevention program consisting of educational programs, counseling, and referral to off-campus agencies.

Possession of firearms or other dangerous weapons is not permitted on campus. It is a violation of New York state law to possess a weapon on the University campus or in space owned or operated by the University, regardless of whether a license has been granted to possess such weapons.

Utica University's Drug and Alcohol Abuse Prevention Policy

Utica University is committed to protecting the safety, health, and well-being of all students, employees, and guests in the University community. Alcohol/drug use and abuse can be very disruptive, often adversely affecting one's quality of work and performance. Alcohol/drug use and abuse poses serious health risks to users and others, resulting in a negative impact on productivity and morale.

Utica University recognizes that early intervention and treatment, as well as a strong support system, improves the success of rehabilitation. The University has therefore established a drug and alcohol abuse and prevention program that balances the University's respect for the individual's choices with the need to maintain a drug-free environment and prevent alcohol and substance abuse. Utica University encourages individuals to voluntarily seek help with drug and alcohol problems.

University policies concerning a drug-free workplace and alcohol abuse prevention are consistent with all federal and state laws, regulations, and orders, including, but not limited to, the Drug-Free Workplace Act of 1988 and the Drug-Free Schools and Communities Act of 1989 (as amended).

Standards of Conduct

Utica University prohibits employees and students from unlawfully manufacturing, distributing, dispensing, possessing, or using alcohol, a controlled substance or illicit drugs in a university workplace, on the University campus, or at any Utica University-sponsored activity or event. The Utica University workplace shall be defined as the Utica University campus and any other place where at least one employee is conducting business or representing the University or at any University-sponsored events.

Utica University is an educational institution dedicated to the pursuit of excellence, the promotion of academic achievement, and the advancementof knowledge. Therefore, Utica University will strenuously enforce the following:

- No alcoholic beverages may be sold, served, given away, or consumed on the Utica University campus or any property owned or controlled by Utica University except as permitted by Utica University policy and the laws of New York.
- Employees and individuals engaged in directly performing work for Utica University shall not report to work under the influence of drugs or alcohol and shall exercise discretion in consuming alcohol while attending University-sponsored events at which alcohol is being served.
- The unlawful manufacture, distribution, dispensing, possession or use of an illicit drug or controlled substance by students or employees shall be prohibited on the Utica University campus or at any Utica University-sponsored activity or event.

Legal Sanctions

Possession or sale of controlled substances is considered a serious offense in the State of New York and can result in substantial fines and/or lengthy jail sentences. Similarly, violations of New York State law concerning purchase, possession, and distribution of alcoholic beverages can result in fines, imprisonment, and/or other penalties.

The following are some of the legal sanctions under local, state, and/or federal law concerning drugs and alcohol. These are merely set forth as an example of the various sanctions and are not meant to be all inclusive of every law. In addition, laws are often amended and sanctions changed. Many offenses and sanctions are case specific, and therefore this notice shall not be deemed to be legal advice.

Driving While Intoxicated and Driving with Ability Impaired by Drugs

Attempting to operate a motor vehicle while under the influence of alcoholic beverages or other drugs is an extremely dangerous practice that may result in injury or death. Persons who operate a motor vehicle while under the influence of alcohol beverages or other drugs are subject to arrest and conviction, including, but not limited to, Driving While Intoxicated (DWI), Driving While Ability Impaired (DWAI), vehicular assault, vehicular manslaughter, and/or aggravated vehicular homicide. Sanctions will result in increased fines and jail time if the offenses are repeat offenses. New York adheres to a "zero tolerance rule," and any individuals under the age of 21 years who plead or are convicted of a drug or alcohol related driving offense may be subject to further sanctions and suspensions.

Convictions under these statutes may lead to fines, legal fees, and increased insurance premiums. Further, conviction under a misdemeanor drug or alcohol-related driving offense results in a criminal record which may have to be reported when seeking employment, applying to graduate programs, and applying for financial aid.

Multiple offenses may result in additional charges at the misdemeanor or felony level and penalties as defined in New York State Penal Law.

Alcohol and Substance Abuse Prevention Program

Utica University is committed to providing its employees with assistance for alcohol and drug problems through the Employee Assistance Program (EAP). In addition, Utica University makes available to all students and employees a substance abuse prevention program consisting of educational programs, counseling, and referral to off-campus agencies.

During the academic year, the Division of Enrollment and the Student Experience sponsors workshops, seminars, and other sessions designed to educate the campus on the topic of drug and alcohol abuse. The Counseling Center offers confidential counseling to any member of the student community who wishes to discuss problems related to drug or alcohol abuse.

In addition to services and referrals offered through the Counseling Center and the Student Health Center, the following services and sources of information are available locally:

- Alcoholics Anonymous: (315) 732-6880
- Rehab and Addiction Centers: Addictions.com
- Community Recovery Center (Rome, NY): (315) 334-4701
- Insight House Chemical Dependency Services: (315) 724-5168 (www.insighthouse.com)

The following are toll-free information and referral services:

- New York State Addictions Helpline: 1-877-846-7369 (https://oasas.ny.gov/)
- National Substance Abuse Treatment Referral Services: 1-800-662-4357 (https://www.samhsa.gov/find-help/helplines/national-helpline)

Student Conduct and Employee Disciplinary Sanctions

Employees and students who violate the Standards of Conduct outlined in this memo will be subject to conduct sanctions, including, but not limited to, expulsion, or termination. Said discipline shall be pursuant to the University's policies and procedures. An employee may be suspended and/or required to enter a drug or alcohol rehabilitation program as part of the discipline.

Employees offered the opportunity to participate in rehabilitation as part of the disciplinary action must sign and abide by the terms set forth in a Return-to-Work agreement as a condition of continued employment. Utica University may, at its sole discretion, require any employee subject to a Return-to-Work Agreement to submit to periodic drug and alcohol testing. Students shall be subject to the University's student conduct process, including, but not limited to, suspension or expulsion. Students found responsible of certain drug violations may also be subject to loss of financial aid benefits.

Utica University additionally shall impose conduct sanctions, consistent with local, state and federal law, including, but not limited to, the Drug-Free Workplace Act of 1988, and reserves the right to refer the matter for prosecution with the appropriate authorities.

Alcohol

All members of the university community and guests are required to comply with university policies and federal, state and local laws regarding the distribution, possession and consumption of alcoholic beverages. Campus Safety strictly enforces those laws and policies. University policies relating to alcoholic beverages are outlined below under the description of the Standards of Conduct for students and the Code of Conduct for employees.

It is Unlawful in NY State

For:

- any person under 21 years of age to buy, possess, transport (unless in the course of employment), or consume alcoholic beverages, wine, or beer.
- any person to purchase an alcoholic beverage for or at the request of a person under 21 years of age.
- any person who is younger than 21 years of age to purchase or attempt to purchase any alcoholic beverage.
- any person under 21 years of age to knowingly make a false statement or exhibit false identification to the effect that the person is 21 years of age or older to any person engaged in the sale of alcoholic beverages for the purpose of purchasing or obtaining the same.
- any person to give or buy alcoholic beverages or beer for or on behalf of any minor or to cause alcohol to be given or bought for or on behalf of any minor for any purpose.
- a driver to consume any alcoholic beverage or beer or possess an open container of alcoholic beverage or beer while operating a motor vehicle in this state
- any person to persuade, entice or send a minor to any place where alcoholic beverages or beer, are sold, to buy or otherwise procure alcoholic beverages or beer in any quantity, for the use of the minor, or for the use of any other person; and/or
- any owner, occupant or other person having a lawful right to the exclusive use and enjoyment of property to knowingly allow a person to consume alcoholic beverages, wine or beer on the property; provided, that

the owner, occupant or other person knows that, at the time of the offense, the person consuming is an underage adult.

Consequences for violating those laws and (or) university policies could result in criminal prosecution, fines, imprisonment, and disciplinary sanctions by the university.

Illegal Drugs

Various federal and NY State laws make it unlawful to manufacture, distribute, dispense, deliver, or sell or possess with intent to manufacture, distribute, dispense, deliver, or sell controlled substances. The penalty imposed for violating one or more of those laws depends upon many factors, which include the type and amount of controlled substance involved, the number of prior offenses, if any, and whether any other crimes were committed in connection with the use of the controlled substance.

Possible sanctions include incarceration up to and including life imprisonment and imposition of substantial monetary fines. Consequences for violating those laws and/or university policies prohibiting the similar misconduct could result in criminal prosecution, fines, imprisonment, and/or disciplinary sanctions by the university. Utica University strictly enforces those laws and policies.

Criminal Sanctions for Unlawful Use and Distribution of Alcohol in New York State

The use of alcoholic beverages is subject to the New York Alcoholic Beverage Control Law and certain provisions of the New York State Penal Law. These laws pertain to the possession, sale, or serving of alcoholic beverages.

- It is illegal for individuals under the age of 21 to possess alcoholic beverages. Underage drinkers are subject to a $50 fine and possible community service.
- An underage drinker who uses fraudulent identification is guilty of a violation punishable by a fine of up to $100 and community service of 30 hours. If the fraudulent identification is a New York State driver's license, the revocation of the license will be added to the above penalty.
- No person may sell, deliver, or give any alcoholic beverage to a person under the age of 21. (The law does not apply to the parent of a minor). Individuals violating this law are guilty of a Class B Misdemeanor and may be subject to a fine not exceeding $500 and a term of imprisonment not to exceed three months.
- A person who misrepresents the age of a person under 21 for the purpose of inducing the sale of alcohol to the "underage" person is guilty of an offense and is subject to a fine of not more than $200 and imprisonment not to exceed five days, or both.
- Any person who shall be injured in person, property, means of support, or otherwise by any intoxicated person, or by reason of the intoxication of any person, shall have right of action against any person who shall, by unlawfully selling to or unlawfully assisting in procuring liquor to such intoxication; and in any such action such person shall have the right to recover actual damages.
- Any person who shall be injured in person, property, means of support, or otherwise by reason of intoxication or impairment of any person under the age of 21 years shall have a right of action against any person who knowingly causes such intoxication or impairment by unlawfully furnishing to or assisting in

procuring alcohol for such a person with knowledge or cause to believe that such person was under the age of 21 years.

Criminal Sanctions for Unlawful Use and Distribution of Drugs in New York State

Marijuana – Article 221 of the Penal Law of the State of New York is no longer in effect and has been replaced with section 220.00 relative to personal use of Cannabis. Only persons 21 years of age or older can legally possess marihuana up to 3 ounces or 24 grams of concentrated cannabis. Regardless of this change in NY State Law, possession and use of cannabis or cannabis-based products is not permitted on the University premises. The following are the New York laws relative to possession and sale of marijuana:

OFFENSE	DEGREE	PENALTY
Unlawful Possession	Violation	Jurisdiction
Criminal Possession		
222.30	3rd Degree	Class A Misdemeanor
222.35	2nd Degree	Class E Felony
222.40	1st Degree	Class D Felony
Unlawful Sale of Cannabis		
222.45		Violation
Criminal Sale of Cannabis		
222.50	3rd Degree	Class A Misdemeanor
222.55	2nd Degree	Class E Felony
222.60	1st Degree	Class D Felony
Aggravated Criminal Sale		
222.65	Aggravated	Class C Felony

Controlled Substances

Section 220 of the New York Penal Law defines those drugs considered "Controlled Substances," including narcotic drugs, narcotic preparations, hallucinogens (LSD, "hallucinogenic mushrooms," etc.), stimulants, depressants, and concentrated forms of cannabis. Individual statutes deal with the criminal possession or sale of these substances and are categorized as misdemeanors or felonies depending on the specific substance, the amount of the substance in question, or the circumstances surrounding the possession or sale of the substance. Possession or sale (or possession with intent to sell) of even a very small amount of some substances is considered a felonious offense and may result in a lengthy jail sentence. With the exception of "Criminal Possession of a Controlled Substance in the Seventh Degree," which is considered a misdemeanor, all other statutes in Section 220 of the Penal Law are felonies. The following are some of the New York State laws covering the unlawful sale and possession of drugs and drug paraphernalia:

OFFENSE	DEGREE	PENALTY
Crim. Pos./Controlled Substance: 220.03 220.06 220.09 220.16 220.18 220.21	7th Degree 5th Degree 4th Degree 3rd Degree 2nd Degree 1st Degree	Class A Misdemeanor Class D Felony Class C Felony Class B Felony Class A–II Felony Class A-I Felony
Crim. Sale Controlled Substance: 220.31 220.34 220.39 220.41 220.43	5th Degree 4th Degree 3rd Degree 2nd Degree 1st Degree	Class D Felony Class C Felony Class B Felony Class A–II Felony Class A-1 Felony
Drug Paraphernalia - Criminal Possession of Hypodermic Instrument – 220.45		Class A Misdemeanor
Criminal Injection of a Narcotic Drug – 220.46		Class E Felony

OFFENSE	DEGREE	PENALTY
Crim use of Drug Paraphernalia: 200.50 220.55	2nd Degree 1st Degree	Class A Misdemeanor Class D Felony
Crim Sale of Prescription Controlled Substance: 220.65		Class C Felony
Criminal Pos. Manuf. Material: 220.70 220.71	2nd Degree 1st Degree	Class A Misdemeanor Class E Felony
Manufacture of Meth: 220.73 220.74 220.75	3rd Degree 2nd Degree 1st Degree	Class D Felony Class C Felony Class B Felony

There are additional federal laws that prohibit the sale, manufacturing, possession or distribution of controlled substances under federal law. Some of these laws are set forth at 21 U.S.C. §812, 841 and 21 C.F.R. 1308.11 through 1308.15.

Standards of Conduct

- Regardless of this change in NY State Law, possession and use of cannabis or cannabis-based products is not permitted on the University premises.
- Consuming, manufacturing, possessing, distributing, dispensing, selling, or being under the influence of alcoholic beverages on university-controlled property or in connection with a university affiliated activity unless expressly permitted by university policy.

- Consuming, manufacturing, possessing, distributing, dispensing, selling, or being under the influence of alcoholic beverages, if prohibited by federal, state, or local law.
- Providing an alcoholic beverage to a person younger than twenty-one (21) years of age, unless permitted by law.
- Using, manufacturing, possessing, distributing, selling, dispensing, or being under the influence of drugs, if prohibited by federal, state, or local law; using, manufacturing, possessing, distributing, or selling drug paraphernalia, if prohibited by federal, state, or local law; using or possessing a prescription drug if the prescription was not issued to the student; or distributing or selling a prescription drug to a person to whom the prescription was not originally issued.
- Committing an act that is prohibited by local, state, or federal law.

These and other Standards of Conduct for students, in addition to the possible sanctions for violating the Standards of Conduct can be found in the Student Code of Conduct.

Utica University's Code of Conduct for Employees

"The unauthorized manufacture, distribution, dispensation, possession, or use of alcohol (whether lawful or not), illegal drugs, intoxicants, or controlled substances; abuse of prescription drugs while on duty; use of alcohol or controlled substances in a University vehicle; or possession or use of alcohol or controlled substances while on duty (except at University-sponsored events and other events an employee is expected to attend as part of his or her duties where alcohol is served)" and "Reporting to work under the influence of intoxicants, including alcohol, non-prescribed drugs, or illicit drugs."

Violation of the Employee Handbook is grounds for disciplinary action, up to and including termination of employment, pursuant to Utica University's Human Resources Policy.

The unauthorized manufacture, distribution, dispensation, possession, or use of alcohol (whether lawful or not), illegal drugs, intoxicants, or controlled substances as well as reporting for duty under the influence of intoxicants, constitutes gross misconduct under university policy. In a case of gross misconduct, immediate disciplinary action up to and including termination may be taken. An employee may be placed on administrative leave while the University is investigating or addressing allegations of misconduct, or as otherwise permitted by University Policies.

Drug and Alcohol Abuse Prevention

Divisions within Enrollment and the Student Experience are committed to promoting responsible decision-making regarding alcohol and drugs through educational programming, resources, and referrals.

For employees, the University's **Employee Assistance Program** may be reached by contacting the Human Resource Office. The EAP manages the alcohol & drug abuse and rehabilitation program for benefits-eligible employees. The Employee Assistance Program also provides counseling and a variety of other referral services.

Health Risks

Aside from any legal or university policy considerations, the use of illicit drugs and/or the misuse of alcohol may be harmful to one's health. Some of the health risks associated with such use/misuse are:

Alcohol-misuse health risks: Liver damage—cirrhosis, alcoholic hepatitis; heart disease— enlarged heart, congestive heart failure; ulcers and gastritis; malnutrition; cancer—of the mouth, esophagus, stomach, liver; brain damage—memory loss, hallucinations, psychosis; damage to fetus if pregnant mother drinks; death—Over 30 percent of fatal auto accidents involve alcohol. Suicide is known to be highly prevalent among those who suffer from alcohol disorders.

Drug-use health risks: Overdosing—psychosis, convulsions, coma, death; long-term use—organ damage, mental illness, malnutrition, death; casual use—heart attack, stroke, brain damage, death; needles— infections, hepatitis, AIDS, death; if a pregnant mother uses drugs, her baby can be stillborn or born with Neonatal Abstinence Syndrome.

There are significant risks with drug use and abuse. More information concerning the risks can be found at www.drugfree.org.

University Weapons Policy

Students:

The university's Student Code of Conduct states that students are prohibited from "possessing, carrying, using, storing, or manufacturing any weapon prohibited by federal, state, or local law; or possessing, carrying, using, storing, or manufacturing any weapon on University-controlled property or in connection with a university-affiliated activity."

Employees:

No employee may carry a firearm or other dangerous weapon or instrument as defined by the NY State Penal Law on the University Campus or within any premises owned or operated by Utica University.

Hazing

General Information
Utica University prohibits hazing.

This prohibition applies to Students, Staff, and Faculty and covers conduct that occurs both on and off campus. Per the Student Code of Conduct, "*The University has jurisdiction over all alleged violations of the Code of Student Conduct by any student(s) or student organization(s) that may be brought to its attention. Jurisdiction extends to alleged misconduct that takes place on University-owned or controlled property and alleged misconduct that takes place at any University sponsored event when it has a significant impact on the educational mission and well-being of The University or well-being of a student or student organization. Jurisdiction may also extend to off-campus incidents when the alleged incident adversely affects members of The University community, interferes with the daily lives of local residents, and/or jeopardizes The University's positive public relationship with the community/public. Jurisdiction may also be extended if The University is made aware of a pending incident that occurred prior to admission that could adversely affect members of The University community, interfere with the daily lives*

of local residents, and/or jeopardize The University's positive public relationship with the community/public." The Utica University Employee Handbook states "*The University shall investigate any such acts occurring at or on the grounds of the University."*

The Campus Hazing Policy at Utica University states, *"Hazing is against New York State Law and is a violation of Utica University Code of Student Conduct. Hazing of any type will not be tolerated. Hazing includes, but is not limited to, any action or situation, which recklessly or intentionally endangers mental or physical health or involves the forced consumption of alcohol or drugs for the purpose of initiation into or affiliation with any organization."* This definition can be found here: https://www.utica.edu/policies/policies.cfm?id=3.

Greek Life at Utica University "…*defines hazing to include any action that intentionally or recklessly causes or poses a substantial risk of harm to the mental or physical health or safety of one or more persons. Violations of this policy will result in referral to Student Conduct and possible disciplinary actions." This definition can be found here: https://www.utica.edu/directory/student-involvement-leadership/greek-life*.

Reports of hazing may be made by anyone and can be filed with Campus Safety in Strebel Student Center, Human Resources at 124 White Hall (if it involves employees), or at the following online form https://utica.guardianconduct.com/incident-reporting/new.

The complete policy and procedures can be found:

- Utica University Campus Hazing Policy: https://www.utica.edu/policies/policies.cfm?id=3.
- Utica University Student Code of Conduct (Policy and Procedure): https://www.utica.edu/student-conduct
- Utica University Employee Handbook: https://www.utica.edu/hr/handbook.cfm

Investigation Process for Students and Student Organizations

Hazing allegations involving students or student organizations are investigated by Campus Safety, in cooperation with the Director of Student Conduct, Director of Athletics, or Assistant Director of Campus Engagement under the Utica University Campus Hazing Policy and Student Code of Conduct.

After a report is received, the Director of Campus Safety conducts the initial review and will involve one or more of the following individuals based on the nature of the complaint.

- Director of Athletics – Athletic Team Specific Complaint
- Assistant Director of Campus Engagement – Greek Life or Student Organization Specific Complaint
- Director of Student Conduct – All other Student Based Complaint

The Vice President of Enrollment Management and Student Experience, or designee, may impose Interim actions which can include (1) modification or suspension of the ability of a student to be present in specific areas or buildings on campus; (2) modification or suspension of the ability of a student to be present on University property in its entirety; (3) modification or suspension of the ability to attend class(es); (4) modification or suspension of the ability to participate in a University-related activity; or (5) the issuance of a No Contact Restriction.

The interim action(s) will be communicated in writing to the student, by email or in person and is effective immediately. Failure or refusal to take receipt of notification will not negate or postpone said interim action. Interim actions are in effect from the time of issuance until the Vice President of Enrollment Management and Student Experience, or designee, determines that the reason for imposing the interim action no longer exists and the student receives written notice that the interim action is no longer applicable or until the resolution of the student conduct matter through the Student Conduct Process.

The accused student or organization receives a pre-hearing notice, which will include the alleged violations, date and time of the meeting, and the Director of Student Conduct's contact information.

The Investigation process is conducted by campus Safety in conjunction with the Director of Athletics, Assistant Director of Campus Engagement, or the Director of Student Conduct. During the investigation process all relevant parties will be asked clarifying questions and evidence will be gathered. Hazing cases will be resolved formally through the hearing process with the Director of Student Conduct. The hearing process uses the preponderance of evidence standard.

A written decision including the determination of responsibility, any sanction(s) for a finding of responsibility, and the process for appeals will be sent via email to the president of the organization or the involved student. Appeals may be submitted up to 3 business days after receiving the notice of sanctions. Grounds for appeal may include:

- Decision - The standard used to make a decision about whether or not the student is responsible for violating the Code of Student Conduct is "preponderance of the evidence." This means that, based on the information available at the time, it is more likely than not that a violation has occurred. In appealing a decision regarding responsibility for a violation, the student must indicate how the decision that was made was not a reasonable conclusion based on information available to the hearing officer.
- Sanction - Appealing for this reason alleges that the sanction imposed is inappropriate or unreasonable. In his or her written statement, the student must outline how the sanction was disproportionate given the violation.
- Procedural Error - Because this is not a court of law, Utica University uses the standard of "fair process" in how the Student Conduct process is carried out. This means that the hearing officer is expected to conduct the original hearing in conformity with procedures described in the "Rights and Responsibilities" section of the Utica University Student Handbook. Appealing on the basis of a procedural error means that one of these standards was not upheld, and that it had a substantial impact on the fairness of the conduct process and the outcome of the hearing.
- New Evidence - An appeal based on "new evidence" means that the student now has additional information that was not available at the time of the hearing, and that that information would have had a substantial impact on the outcome of the hearing. If the student appeals on this basis, he/she must indicate in the written statement what new information is now available, how the information is sufficient to alter the original decision, and why the information was not provided at the time of the original conduct hearing.

Possible sanctions include written warnings through expulsion. Additionally, educational sanctions may be assigned. These could include, but are not limited to, Judicial Educator Modules or papers.

Individuals are expected to cooperate with the investigation, and retaliation is prohibited.

Hazing violations involving school or student organizations are published in Utica University's Campus Hazing Transparency Report, available at https://www.utica.edu/directory/campus-safety/clery-act-information#hazing.

Investigation Process for Faculty and Staff

Hazing allegations involving staff are investigated by the Office of Human Resources in accordance with the University's Complaint and Investigations Procedures. Allegations involving faculty will follow the American Association of University Professors Utica University Chapter ("AAUP – Utica") Collective Bargaining Agreement's Progressive Discipline process.

After a report is received, a staff member within the Office of Human Resources conducts the initial review and takes any interim actions, as appropriate. The accused employee is promptly notified of the complaint and is provided with an initial opportunity to respond.

Steps will be taken to obtain and preserve any relevant documents, emails, phone records, or any other pertinent evidence. The investigator(s) (typically someone from the Office of Human Resources) assigned to investigate the complaint will request and review all relevant documents, including all electronic communications. The investigator(s) will also interview all parties involved, including any relevant witnesses.

The investigator(s) will create written documentation of the investigation (such as a letter, memo, or email) which contains the following:

- A list of all documents reviewed, along with a detailed summary of relevant documents;
- A list of names of those interviewed, along with a detailed summary of their statements;
- A timeline of events;
- A summary of prior relevant incidents, reported or unreported; and
- The final resolution of the complaint, with any corrective action(s).

The investigator(s) will keep the written documentation and associated documents in the employer's records.

The investigator(s) will promptly notify the individual(s) who complained and the individual(s) who responded to the final determination and implement any corrective actions identified in the written document. If applicable, they will also inform the individual who complained of their right to file an external complaint with a governmental agency (e.g. EEOC).

If the Human Resources representative determines that an employee has engaged in a violation of this policy, as determined by a "preponderance of the evidence" standard, the Human Resources representative will also make recommendations to the supervisor and any other appropriate parties regarding discipline or other appropriate action to be taken with respect to the responding party, including any other non-disciplinary remedial actions. For specific information on employee or bargaining unit

faculty member disciplinary processes, please consult the Utica University Employee Handbook or AAUP – Utica Collective Bargaining Agreement.

Faculty members are also held to the preponderance of evidence standard. In cases involving faculty members, the Human Resources representative will make recommendations to the school dean, AAUP-Utica President, and any other appropriate parties regarding discipline or other appropriate action to be taken with respect to the responding party, including any other non-disciplinary remedial actions, and in accordance with the collective bargaining agreement currently in force between faculty members and the University.

Possible sanctions may lead to disciplinary action, up to and including termination of employment. Faculty disciplinary actions are subject to the grievance and arbitration procedures set forth in the AAUP – Utica Collective Bargaining Agreement.

All employees are expected to cooperate with the investigation, and retaliation is strictly prohibited.

Sexual Misconduct, Sexual Harassment, Sexual Assault, Dating and Domestic violence, and Stalking Educational Programming, Policies and Procedures

Additional information concerning options for reporting sexual assault, domestic violence, dating violence, and stalking can be found in the following university policies. These policies also provide information on confidential resources that are alternatives to reporting an incident to the university.

Utica University Sexual Harassment and Misconduct Policy



For more information and Title IX policies, please visit: www.utica.edu/titleix

Reporting Sexual Assault, Dating and Domestic Violence, and Stalking

The University's policies on Sexual Harassment, Sexual Assault, Dating and Domestic Violence, and Stalking outlines the University's policy and procedure for reports of prohibited conduct (sexual harassment, sexual assault, domestic and dating violence, stalking, sexual exploitation, and retaliation). The policy and procedures define confidentiality and those requests that no investigation into a particular incident be conducted, or disciplinary action taken. The policy also provides information on confidential resources that serve as alternatives to reporting an incident of prohibited conduct to the University. In accordance with 2024 Title IX regulations, acts of sex discrimination, sexual harassment and sexual misconduct that occurred ***before*** August 1, 2024, will be adjudicated with the University's 2020-2024 policy. **Any acts that occurred *after* August 1, 2024, will be adjudicated with the 2020 policy.**

For victims of sexual assault, there are steps to preserve evidence and maintain anonymity. A victim of a sexual assault may go to a local hospital and request a forensic sexual assault examination. NY State law requires medical providers who treat victims of sexual assault to notify those individuals that the cost of a forensic rape exam (FRE) can be billed directly to the state Office of Victim Services (OVS). Please refer to NY State Office of Victim Services at: https://ovs.ny.gov/

Utica University Policy on Sex Discrimination, Sexual Harassment and Sexual Misconduct

Utica University is committed to providing a learning and working environment in which all interpersonal relationships are based upon respect and dignity. Therefore, in accordance with Title IX of the Education Amendments of 1972 (Title IX), the Clery Act, the Violence Against Women Act, and New York Education Law Article

129-B, Utica University will not tolerate sexual harassment or sexual misconduct, which are forms of discrimination on the basis of sex, that include any of the following when they impact or have the potential to impact the educational or employment environment of any members of the University community: sex discrimination, sexual harassment (including harassment based on gender identity, gender expression, or transgender status); sexual assault; domestic or dating violence; stalking; sexual exploitation; or other behavior prohibited by this policy.

Utica University endeavors to provide a fair, impartial, and prompt response when sex discrimination (including sexual harassment) or other forms of sexual misconduct is/are alleged to have occurred within the University community. Reports of such conduct will be promptly and thoroughly investigated either through a process based on Title IX regulations, if applicable, or through an alternative investigative process.

Individuals who are found to have been engaged in sex discrimination (including sexual harassment) or other forms of sexual misconduct will be sanctioned following guidelines established in the applicable handbook, contract, or policy. More specifically, any individual who engaged in such behavior will be subject to disciplinary action through the appropriate disciplinary process.

The University encourages any individuals covered by this policy who believe they are the victim of sex discrimination (including sexual harassment) or other forms of sexual misconduct to report it and to take steps to preserve evidence, as it may be helpful in criminal and/or University disciplinary proceedings. Individuals who believe they are a victim of such conduct have the option of filing a report with the University, with local law enforcement, or with both. Those wishing to notify local law enforcement authorities will be assisted in doing so. Because the standards for finding a violation of criminal law are different from the standards in this policy, criminal investigations or reports will not determine whether or not a violation of this University policy has occurred.

Educational Programs and Campaigns

Utica University utilizes a range of campaigns, strategies and initiatives to provide awareness, educational, risk reduction and prevention programming. In its efforts to reduce the risk of sexual misconduct as well as the crimes of rape, sexual assault, sexual harassment, stalking, dating violence and domestic violence occurring among its students.

It is the policy of Utica University to offer programming to prevent domestic violence, dating violence, sexual assault (including stranger and known offender assaults) and stalking each year. Educational programs are offered to raise awareness for all incoming students and employees and are often conducted during new student and new employee orientation and throughout an incoming student's first semester. These programs and others offered throughout the year include strong messages regarding not just awareness, but also primary prevention (including normative messaging, environmental management and bystander intervention), and discuss institutional policies on sexual misconduct as well as New York State's definitions of domestic violence, dating violence, sexual assault, stalking and consent in reference to sexual activity. Bystander engagement is encouraged through safe and positive intervention techniques and by empowering third-party intervention and prevention such as calling for help, using intervention-based apps, identifying allies and/or creating distractions.

Programs also offer information on risk reduction that strives to empower victims, how to recognize warning signals and how to avoid potential attacks and do so without victim-blaming approaches. Throughout the year, ongoing awareness and prevention campaigns are directed to students and employees, including faculty, often taking the form of pledge campaigns, guest speakers, movie nights and discussions, forums, use of online educational courses and programs, and participation in university and local community events.

Legal Definitions of Rape and Sexual Assault

Rape is generally defined as forced sexual intercourse. It may also include situations where the victim is incapable of giving consent due to incapacitation by means of disability or alcohol or other drugs. Many rapes are committed by someone the victim knows, such as a date or friend.

Under New York State law, rape is defined as sexual intercourse against the will of the victim that can occur under a variety of circumstances, including:

- Where there is a threat, expressed or implied, which places a person in fear of immediate death or physical injury to himself, herself or another person
- Where the victim fears that she or he or another will be injured if the victim does not submit.
- Where the victim is at the time physically unconscious or for any other reason is physically unable to communicate unwillingness to the nature of the act, and this is known to the assailant.
- Where the victim is incapable of giving legal consent due to a mental disorder or developmental or physical disability, and this is known or reasonably should be known to the assailant.

The complete New York State rape and sexual assault offense definitions can be found here:
NY State Definitions - Rape/Sexual Assault

Other Sexual Offenses

Besides rape, other sexual offenses include the following: sodomy (forced anal intercourse); oral copulation (forced oral-genital contact); rape by a foreign object (forced penetration by a foreign object, including a finger); and sexual battery (the unwanted touching of an intimate part of another person for sexual arousal).

Definitions of Sexual Harassment, Dating/Domestic Violence, Sex Offenses

- **Sexual harassment.** "Sexual harassment", as a Title IX Violation, means conduct on the basis of sex, including gender, sexual orientation, or gender identity or expression, that satisfies one or more of the following:
    - An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct (commonly referred to as a "quid pro quo"); or
    - 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 University's education program or activity (commonly referred to as a sexually or gender-based "hostile environment").

- **Dating Violence.** Dating violence refers to violence (including but not limited to sexual or physical abuse or the threat of such abuse) committed by a person who is or has been in a social relationship of a romantic or intimate
  nature with the victim, where the existence of such a relationship shall be determined based on the statement of the reporting party with consideration of the following factors: (i) the length of the relationship; (ii) the type of

relationship; and (iii) the frequency of interaction between the persons involved in the relationship. Dating violence can include behavior such as coercion, isolation or other forms of emotional, verbal or economic abuse if it reflects a threat of sexual or physical abuse as described above. Dating violence does not include acts covered under the definition of domestic violence.

- **Domestic Violence.** Domestic violence refers to violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction where the University is located, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. To categorize an incident as Domestic Violence, the relationship between the responding party and the reporting party/complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship as described above.
- **Stalking.** Stalking is engaging in a course of conduct directed at a specific person on the basis of sex that would cause a reasonable person to fear for their safety or the safety of others; or suffer substantial emotional distress. For the purposes of this definition, (i) a "course of conduct" means two or more acts, including, but not limited to, acts in which the individual directly, indirectly, or through third 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; (ii) "reasonable person" means a reasonable person under similar circumstances and with similar identities to the reporting party/complainant; and (iii) "substantial emotional distress" means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling. Examples of behavior that may constitute stalking include repeated, intentional following, observing or lying in wait for another; using "spyware" or other electronic means to gain impermissible access to a person's private information; repeated, unwanted, intrusive, and frightening communications by phone, mail, email, text, etc.; making direct or indirect threats to harm an individual or the individual's relatives, friends, or pets; or damaging or threatening to damage the property of the targeted individual.
- **Sexual Assault**. Consistent with federal law, the University defines sexual assault as including:
    - Non-Consensual Sexual Intercourse. Sexual assault of this type includes 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 other person.
    - Non-Consensual Sexual Contact. This form of sexual assault includes the intentional touching of another person's clothed or unclothed body parts without consent, or the forced touching by another person of the actor's clothed or unclothed body parts without consent, for the purpose of sexual degradation, sexual gratification, or sexual humiliation. This definition includes, without limitation, instances when the victim is incapable of giving consent due to age or incapacity due to mental or physical impairment (temporary or permanent).
    - Incest. Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
    - Statutory Rape. Non-forcible sexual intercourse with a person who is under the statutory age of consent. The statutory age of consent in New York is 17.
- **Sexual Exploitation.** Taking nonconsensual or abusive sexual advantage of another for one's own benefit or for the benefit of anyone other than the person being exploited, if the conduct does not otherwise constitute another offense under this policy. Examples of sexual exploitation include (a) sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed); (b) taking pictures, video, or audio recording of another in a sexual act, or in any other sexually-related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating

sexual pictures without the photographed person's consent or beyond the parameters of consent), including the making or posting of revenge pornography; (c) exposing one's genitals in non-consensual circumstances or nonconsensual disrobing of another person so as to expose the other person's private body parts; (d) prostituting another person; (e) engaging in sexual activity with another person while knowingly infected with a sexually-transmitted disease (STD) or infection (STI), without informing the other person of the STD or STI; (f) causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity; (g) misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections; (h) forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity; or (i) knowingly soliciting a minor for sexual activity.

New York Law 129-B Definition of Consent

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

Utica University Definition of Affirmative Consent

For individuals to engage in sexual activity of any type with each other, there must be clear, affirmative consent. Whenever the term consent is used in this policy, it should be understood to mean affirmative consent as defined here. Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, if 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 affirmative consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

- Under this policy, "No" always means "No." At the same time, silence, or the absence of an explicit "no," cannot be assumed to indicate consent.
- Consent to some form of sexual activity cannot be automatically taken as consent to any other sexual activity.
- Past consent to sexual activity cannot be presumed to be consent to engage in the same sexual activity in the future. Consent can be withdrawn at any time by expressing in words or actions that he or she no longer wants the sexual activity to continue and, if that happens, the other person must stop immediately.
- Affirmative consent cannot be obtained by use of physical force, compelling threats, intimidating behavior, or coercion. Coerced sexual activity violates this policy just as much as physically forced sex violates this policy. Coercion happens when someone unreasonably pressures someone else for sex.
- Certain conditions prevent a person from being able to consent. Consent cannot be given by a person if the following conditions or influences exist:

- **Incapacitation:** Incapacitation occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness, mental disability, being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. To give affirmative consent, one must be of legal age, which is 17 in the state of New York. Use of alcohol or other drugs does not, in and of itself, negate a person's ability to give affirmative consent. However, depending on the degree of intoxication, someone who is under the influence of alcohol or drugs or other intoxicants may be intoxicated and therefore unable to consent. A person who has been drinking or using drugs is still responsible for ensuring that he or she has the other person's affirmative consent to engage in sexual activity. An individual's incapacity may also be caused by the taking of so-called "date rape" drugs. Possession, use, and/or distribution of any of these substances (including Rohypnol, Ketamine, GHB, Burundanga, and others) is prohibited, and administering any of these drugs to another person for the purpose of inducing one to consent to sexual activity is a violation of this policy.

- **Coercion:** Coercion is a threat, undue pressure, or intimidation to engage in sexual activity. Coercion is more than an effort to persuade, seduce, entice, or attract another person to engage in sexual activity. A person's words or conduct are sufficient to constitute coercion if they deprive another individual of the ability to freely choose whether or not to engage in sexual activity.

- **Force:** Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that overcome resistance or produce consent.

- **Predatory Drugs:** A person under the influence of predatory drugs is also considered incapacitated. Predatory drugs, also called date rape drugs, include but are not limited to GHB (gamma hydroxybutyrate), Rohypnol, and Ketamine. These are odorless, colorless drugs that can easily be slipped into a drink. They can produce disorientation, loss of inhibition, and unconsciousness, and may also cause amnesia as an aftereffect. These drugs are fast-acting and more dangerous when combined with alcohol.

Suggestions for Staying Safe, Finding Support, and Preserving Evidence

If you are the victim of sexual misconduct, gender-based violence or the crimes of rape, acquaintance rape, sexual assault, sexual harassment, stalking, dating violence or domestic violence, some or all these safety suggestions may guide you after an incident has occurred:

- Go to a safe place and speak with someone you trust. Tell this person what happened. If there is any immediate danger and you are on campus, contact Campus Safety at (315) 792-3046/611. Call 911 if you are off campus.
- Any Utica University community member who has been the victim of Prohibited Conduct has the right to make a report to the University, local law enforcement, and/or the state police, or choose not to report. If reported to the University under this policy, a reporting individual will be protected from retaliation and will receive appropriate assistance and resources from Utica University. Please see the Student's Bill of Rights for cases involving sexual assault, domestic violence, dating violence, or stalking.
- Consider securing immediate professional support (e.g.: counseling, victim advocacy, medical services, etc.) to assist you in the crisis.

- If you are on campus during regular business hours, you may go to the Student Health and Wellness Center (which includes the Student Health Center and the Counseling Center) in Room 204 Strebel Student Center for support and guidance. These are both confidential resources.
- After regular business hours, the University has contracted with **Bettermynd 24/7 Crisis Line (844-287-6963).** This service provides 24/7 crisis intervention and assistance for those seeking support and guidance.
- For your safety and well-being, immediate medical attention is encouraged. Further, being examined as soon as possible, ideally within 120 hours, is important in the case of rape or sexual assault. The hospital will arrange for a specific medical examination at no charge. Wynn Hospital is the closest trauma center that can provide prompt, compassionate care in the event immediate medical attention is required. However, MVHS/Wynn Hospital ***does not*** have a "Full on Call" SANE-Nurse Program.

  Wynn Hospital Emergency Department:
  440 Columbia St.
  Utica, NY 13501
  p. (315) 917-9966

- Oneida Healthcare ER provides a full on-call **SANE-Nurse Program**. SANE Nurses are specially trained to help victims of sexual assault and will provide compassionate care and comprehensive evidence collection.

  Oneida Health Emergency Care:
  321 Genesee Street
  Oneida, NY 13421
  p. (315) 363-6000

To Preserve Evidence:

- Do not bathe, shower, eat, drink, smoke, brush your teeth, urinate, defecate or change clothes before receiving medical attention. Even if you have already taken any of these actions, you are still encouraged to have prompt medical care, and evidence may still be recoverable.

- Typically, if police are involved or will be involved, they will obtain evidence from the scene, and it is best to leave things undisturbed until their arrival. They will gather bedding, linens or unlaundered clothing and any other pertinent articles that may be used for evidence. It is best to allow police to secure items in evidence containers, but if you are involved in transmission of items of evidence, such as to the hospital, secure them in a clean paper bag or clean sheet, to avoid contamination.

- If you have physical injuries, photograph or have them photographed, with a date stamp on the photo.

- Record the names of any witnesses, and their contact information. This information may be helpful to the proof of a crime, to obtain an order of protection or to offer proof of a campus policy violation.

- Try to memorize details (physical description, names, license plate number, car description), or even better, write notes to remind you of details, if you have time and the ability to do so. If you obtain external orders of protection (e.g. restraining orders, injunctions, protection from abuse), please notify Campus Safety or Utica University's Title IX Coordinator so that those orders can be observed on campus.

Even after the immediate crisis has passed, consider seeking support from the Utica University Counseling Center and/or the YWCA Sexual and Domestic Violence Services (315-797-7740).

Contact the Director of Student Conduct and Community Standards in Room 103 Strebel Student Center at (315) 792-3363, or the Director of Campus Safety at (315) 792-3046, if you need assistance with university related concerns such as no-contact restrictions or other protective measures. The Director of Campus Safety will also assist in any needed advocacy for students who wish to obtain protective or restraining orders from local authorities. To file a Title IX complaint please contact:

Title IX Coordinator:
Kyle Wilson
(315) 792-3063
Email: klwilson@utica.edu

The Title IX Coordinator can offer and coordinate reasonable academic accommodations, changes to living arrangements, transportation accommodations, escorts, no contact restrictions, access to counseling services, and other supports and resources as needed by a victim. In addition to offering and coordinating supportive measures, the Title IX Coordinator can initiate an informal resolution process or an investigation under the grievance procedures.

Policies & Procedures for Sex Discrimination, Sexual Harassment, and Sexual Misconduct

Any Utica University community member who has been the victim of sexual misconduct has the right to make a report to the University, local law enforcement and/or the New York State Police, or choose not to report. If reported to the University under this policy, a reporting individual will be protected from retaliation and will receive appropriate assistance and resources from Utica University. A Students' Bill of Rights for cases involving sexual assault, domestic violence, dating violence, or stalking is included as an appendix to this policy.

Investigations and Disciplinary Proceedings

If a report appears to allege a plausible violation of this policy, the University will investigate. An investigation may occur because a reporting party wishes to proceed with a complaint, or because the University determines that this is necessary despite the wishes of the reporting party. The University endeavors to ensure that complaints are responded to in a prompt, fair, and impartial manner.

If an investigation is to be conducted pursuant to this policy, the Title IX Coordinator will send a written Notice of Allegations to both the reporting party and the responding party that will include:

- Notice of the University's Sex Discrimination, Sexual Harassment and Sexual Misconduct Policy and a hyperlink to a copy of the policy.
- To the extent known, the identities of the involved parties; the date, time, location and factual allegations concerning the alleged violation; the policy provisions allegedly violated; a description of the investigation and adjudication process; and potential sanctions.
- A statement that the responding party is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.

- A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
- A statement that the parties may inspect, and review evidence obtained as part of the investigation in accordance with this policy.
- Notice that knowingly making false statements or knowingly submitting false information is prohibited under university policies; and
- A statement about the University's policy on retaliation.

To the extent the Title IX Coordinator has reasonable concerns for the safety of any person as a result of providing the Notice of Allegations, the Title IX Coordinator may reasonably delay providing the Notice in order to address the safety concerns appropriately. Reasonable concerns must be based on an individualized safety and risk analysis and not on mere speculation or stereotypes. In any event, the parties will receive the Notice of Allegations with sufficient time to prepare a response before any initial interview.

If, in the course of an investigation, the University decides to investigate allegations that are not included in the Notice of Allegations, the University will notify the parties whose identities are known of the additional allegations by their institutional email accounts or other reasonable means. The parties will be provided sufficient time to review the additional allegations to prepare a response before any initial interview regarding those additional allegations.

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

The Title IX Coordinator will assign investigators (usually no more than two) to interview involved parties for the purposes of gathering facts and evidence. The reporting party and responding party will be provided with notice of the name(s) of the appointed investigator(s) (typically in the Notice of Allegations) and an opportunity of not more than three (3) days after the notice to raise an objection to the investigator(s) based on any alleged conflict of interest known to the party. If an objection is raised, the Title IX Coordinator will determine whether a conflict of interest in fact exists and necessitates the replacement of the investigator(s).

The investigator(s) will provide written notice to any individual who is asked to participate in an investigatory interview, including the reporting party and the responding party. The investigator will communicate the date, time and location of the interview in the notice. The investigator will also let the reporting party and responding party know that they may bring an advisor of choice (who may or may not be an attorney) to the investigatory interview, but only for supportive purposes. The advisor will not be allowed to interject without permission from both the investigator and the interviewee. Witnesses are not permitted to bring advisors to investigative interviews.

If either party chooses not to participate in the investigation interview in person and instead wishes to submit written material and evidence (in lieu of an interview), that party will not be allowed to submit additional evidence once the hearing begins absent extraordinary circumstances as determined by the decision-maker. A party who chooses not to participate in the investigation interview will still have a right to review evidence (see below) as outlined in this policy.

The University's investigation may be temporarily delayed where there is a concurrent law enforcement investigation if necessary to avoid interference with the law enforcement investigation; such a delay will not exceed ten (10) days unless a longer time period is requested and justified by the law enforcement agency.

Advisor of Choice

The reporting party and responding party have the opportunity to select someone to be with them throughout the investigatory and hearing processes. This individual, called the "advisor of choice" or "advisor", may, but is not required to, be an attorney. In cases where a student does not have access to an advisor, the University will provide an advisor of the University's choice. The advisor will be copied on correspondence that is presented throughout the investigatory process, as well as communications related to determination of the hearing process, and any associated disciplinary action.

The advisor's role is to support the reporting party or responding party throughout the process and aid in their understanding of the investigatory and/or disciplinary process. The advisor may talk quietly with the party, but may not participate in the interview, and the party is required to speak on his or her own behalf. The advisor may not intervene in an investigatory meeting or disciplinary proceeding and is not permitted to speak or otherwise make any direct statements to the investigators.

An advisor who does not abide by this role may be precluded from further participation in investigatory meetings. Investigations will not be delayed based on the availability of a party's desired advisor.

Grievance Process Timeframe – Timeliness of Investigation

The assigned investigators will conduct their investigation of complaints under this policy expeditiously. To the extent possible, the investigation will begin promptly upon receipt of the complaint. The University endeavors to complete the investigatory phase within 30 days, but this timeframe may be extended, if necessary, under the circumstances.

Informal Complaint Resolution

Informal resolutions may occur in the place of a formal grievance process only with voluntary, informed and written consent by both parties and approval by the Title IX Coordinator. Examples of informal resolution include mediation or restorative justice. Informal resolution may occur prior to, after, or without the filing of a complaint.

In cases where the Title IX Coordinator determines that informal resolution may be appropriate, the Title IX Coordinator will first consult with the reporting party/complainant about the option to pursue informal resolution. If the reporting party/complainant is agreeable, then the Title IX Coordinator will consult with the responding party to discuss the process. If both parties are agreeable, the informal resolution process will be coordinated by the Title IX Coordinator. Informal resolutions should only be handled by an individual who is trained in facilitation. Either party who enters into an informal resolution process may decide to withdraw from the process prior to agreeing to a resolution.

There may be instances when, for the safety of others who may be affected by the alleged action, an investigation will still be conducted despite the willingness of the parties to engage in an informal resolution process. Should this type of situation arise, the University will communicate the need to investigate to the reporting party and responding party.

Investigation Findings

Once the evidence is gathered and made available for review as described above, the investigator(s) will prepare an investigative report that fairly summarizes the relevant and not impermissible evidence. The report will be provided to the reporting party, the responding party, their respective advisors in electronic format or hard copy, or made available through an electronic file sharing platform, and to the Title IX Coordinator.

The reporting party and responding party will have 10 business days to review and, if desired, to respond to the report. After 10 business days have passed, or after having heard from both parties, whichever comes first, the Title IX Coordinator will provide the report to the decision-maker (see definitions) to begin the hearing process.

In any case where a student is a reporting party or responding party, both the reporting party and responding party will be permitted to submit a written impact statement to the Title IX Coordinator for consideration in the event of a finding of responsibility for violation of this policy and prior to the determination of an appropriate sanction(s). The Title IX Coordinator will provide copies of any such written impact statements to the decision-maker for making a determination regarding appropriate sanctions if (but only if) the responding party is found responsible for one or more allegations.

Disciplinary Proceedings

This policy applies campus-wide and sets forth behavioral expectations for all. However, the applicable disciplinary procedure that will be applied in a particular case depends on whether the responding party is a student, faculty member, an employee, or a non-community member.

Following the conclusion of the investigation, the Title IX Coordinator will forward the investigatory report to the appropriate person identified in the following sections.

Student Responding Party

In cases involving allegations against a student, the case will be referred to the Director of Student Conduct and Community Standards. The Director of Student Conduct and Community Standards will review the findings and recommendations of the investigators and make a final determination, including, where appropriate, issuing appropriate sanctions. The Director of Student Conduct and Community Standards is not bound by the investigators' report; rather, the report is advisory.

Once the Director of Student Conduct and Community Standards receives the investigative report, a live hearing will be scheduled not less than 10 days after the parties have been provided access to the report, for the purpose of determining whether the responding party is responsible or not responsible for the allegation(s).

Following conclusion of the hearing the Director of Student Conduct and Community Standards shall issue a determination as to whether sexual harassment, domestic or dating violence, stalking, or any other form of sexual misconduct and/or related retaliation occurred.

If the Director of Student Conduct and Community Standards determines that a student has engaged in a violation of this policy, as determined by a "preponderance of the evidence" standard, the Director will also make a determination regarding sanctions or other appropriate action to be taken with respect to the responding party.

For those crimes of violence that the University is required by federal law to include in its Annual Security Report, the transcripts of students found responsible after a hearing and appeal, if any, shall include the following notation:

- Withdrew with conduct charges pending,
- Suspended after a finding of responsibility for a code of conduct violation, or
- Expelled after a finding of responsibility for a code of conduct violation.

Transcript notations for suspensions may be removed at the discretion of the University one year after the conclusion of the suspension. Transcript notations for expulsion shall not be removed.

Policies and Procedures for Complaints of Sex Discrimination, Sexual Harassment or Sexual Misconduct Between or Among Employees

In cases involving allegations against a faculty member:

The Title IX Coordinator (or Deputy Title IX Coordinator in cases where the Title IX Coordinator is employed within the Office of Human Resources) will be responsible for coordinating the case and sharing the findings and recommendations with a member in the Office of Human Resources. The Human Resources representative will make a final determination regarding the faculty member's responsibility for a violation of this policy. The Title IX Coordinator (or Deputy) may discuss the case, and the information provided with the investigators, with anyone interviewed as part of the investigation, or with any other persons deemed relevant. Either party will be asked to meet individually with investigators prior to their determination and/or to provide information regarding witnesses.

After review of the investigatory report, the Human Resources representative shall issue a determination as to whether sexual harassment, domestic or dating violence, stalking, or any other form of sexual misconduct and/or related retaliation occurred. If the Human Resources representative determines that the faculty member has engaged in a violation of this policy, as determined by a "preponderance of the evidence" standard, the Human Resources representative will also make recommendations to the school dean, AAUP-Utica President, and any other appropriate parties regarding discipline or other appropriate action to be taken with respect to the responding party, including any other non-disciplinary remedial actions, and in accordance with the collective bargaining agreement currently in force between faculty members and the University.

In cases involving allegations against a staff member or contract employee:

The Title IX Coordinator (or Deputy Title IX Coordinator in cases where the Title IX Coordinator is employed within the Office of Human Resources) will be responsible for coordinating the case and sharing the findings and recommendations with a member in the Office of Human Resources. The Human Resources representative will make a final determination regarding the faculty member's responsibility for a violation of this policy. The Title IX Coordinator (or Deputy) may discuss the case, and the information provided with the investigators, with anyone interviewed as part of the investigation, with or any other persons deemed relevant.

Either party will be asked to meet individually with investigators prior to their determination and/or to provide information regarding witnesses. After review of the investigatory report, the Human Resources

representative shall issue a determination as to whether sexual harassment, domestic or dating violence, stalking, or any other form of sexual misconduct and/or related retaliation occurred. If the Human Resources representative determines that an employee has engaged in a violation of this policy, as determined by a "preponderance of the evidence" standard, the Human Resources Representative will also make recommendations to the supervisor and any other appropriate parties regarding discipline or other appropriate action to be taken with respect to the responding party, including any other non-disciplinary remedial actions. For specific information on employee disciplinary processes, please consult the Utica University Employee Handbook.

Vendor, Visitor or Other Non-Community Member

In cases involving allegations against a non-community member (e.g., a vendor, visitor, contractor, parent, etc.), the case will be referred to the Office of Human Resources. The Office of Human Resources will work with the appropriate parties (such as the Associate Director of Campus Safety) and make a final determination regarding remedies, including, if appropriate, the imposition of action such as banning the non-community member from university property or other appropriate responsive measures.

In all cases, the official reviewing the findings and recommendations may accept them, reject them, send the matter back for further consideration, or issue his or her own determination. Any determination is to be based on a preponderance of the evidence presented. In any case where a student is a reporting party or responding party, both the reporting party and responding party will be permitted to submit a written impact statement to the Title IX Coordinator after a finding of responsibility for violation of this policy and the determination of an appropriate sanction(s). The Title IX Coordinator will provide copies of any such written impact statements to the official responsible for making a determination regarding appropriate sanctions.

A non-community member may make a report that a university community member has violated this policy. A non-community member's complaint will be processed in accordance with the applicable disciplinary procedures listed above.

The University will endeavor to complete the disciplinary proceedings within 120 days of receiving the initial complaint, but this timeframe may be extended with notification to the parties for good reason, including but not limited to the absence of party, a party's advisor, or a witness; concurrent law enforcement activity; breaks in the academic schedule; or approved extensions.

The standard for decisions in investigatory and disciplinary proceedings is a preponderance of the evidence, meaning that is it more likely than not a violation of this policy occurred. Both parties will receive written notice, at or about the same time, of outcomes of all disciplinary proceedings, to the extent permitted by law. In cases where a student is the reporting party and/or responding party, the outcome letter will include factual findings supporting the determination, the decision and sanction, if any, as well as the rationale for the decision and sanction.

Appeals

In all cases (except when a vendor, visitor, or other non-community member does not have a right to appeal), if either party is dissatisfied with the decision made through the student conduct or employee disciplinary process regarding the responding party's responsibility (or the lack of such a finding), or the sanction(s) imposed, or both, either party may file an appeal within three (3) business days of the decision. The grounds for appeal are limited to:

- A procedural irregularity that affected the determination or dismissal.

- Newly discovered evidence that was not reasonably available at the time the determination or dismissal was made that could affect the determination or dismissal; or
- The Title IX Coordinator, investigator(s), or decision-maker had a conflict of interest or bias for or against reporting parties/complainants or respondents generally or the individual reporting party/complainant or respondent in the case that affected the determination regarding responsibility or dismissal; or
- A sanction is inconsistent with the severity of the violation or otherwise inappropriate.

If an appeal is submitted, both parties will be notified. Sanctions remain in place pending the outcome of the appeal, unless the Title IX Coordinator decides otherwise in consultation with the Director of Student Conduct and Community Standards or other appropriate staff members. The appeal decision will be provided to both parties in writing, at or about the same time, and will be final with the exception of a fair process appeal in cases involving a student responding party.

Where the responding party is a student, the appeal will be considered by an appeals panel comprised of three individuals from the University community who are appointed to serve as an appeals board. Where the responding party is a faculty member, the appeal will be considered by the Provost. Where the responding party is a staff member, the appeal will be considered by the staff member's area vice president.

Law Enforcement and Criminal Charges

A victim of a crime, including sexual misconduct, is encouraged, but is not required, to report the incident to law enforcement and pursue criminal charges. Members of the University community who want to pursue criminal charges may contact the Student Counseling Center, Division of Enrollment and the Student Experience, the Office of Campus Safety, or the YWCA/local crisis center for assistance in making a report of a crime to law enforcement or may contact law enforcement authorities directly.

The criminal process and the University's investigatory/disciplinary processes are not mutually exclusive or dependent on each other, meaning that a person may pursue either a criminal complaint or internal complaint with the University or both. Any internal University investigation and/or hearing process will be conducted concurrently with any criminal justice investigation and proceeding that may be pending. Temporary delays in the University's internal processes may be requested by local law enforcement authorities for evidence gathering. Any temporary delay shall not last more than ten (10) days, except when local law enforcement authorities specifically request and justify a longer delay. The University will cooperate with any criminal proceedings as permitted by law.

In criminal cases, including non-consensual sex offenses, the preservation of evidence is critical and must be done properly and promptly. Local law enforcement agencies can assist in filing a criminal complaint and in securing appropriate examination, including by a Sexual Assault Nurse Examiner. The New York State Police Sexual Assault Hotline, which can be reached at 1(844) 8457269, may also be of assistance in reporting an incident to law enforcement.

Additionally, orders of protection and other forms of legal protection may be available to individuals who have experienced or are threatened with violence. In appropriate circumstances, an order of protection may be available that restricts the offender's right to enter University property, and the University will abide by a lawfully issued order of protection. Utica University officials will, upon request, provide reasonable assistance to any member of the University community in obtaining an order of protection or, if outside New York State, an equivalent protective or restraining order, including providing that person with:

- A copy of an order of protection or equivalent when received by the University and providing that person with an opportunity to meet or speak with a Utica University representative, or other appropriate individual, who can explain the order and answer questions about it, including information from the order about the other person's responsibility to stay away from the protected person or persons.

- An explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension; and

- Assistance in contacting local law enforcement related to alleged violations of such order of protection.

Amnesty

The health and safety of every student at Utica University is of utmost importance. Utica University realizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Utica University strongly encourages students to report domestic violence, dating violence, stalking or sexual assault to Utica University officials.

A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking or sexual assault to Utica University officials or law enforcement will not be subject to the University's Student Code of Conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking or sexual assault.

Non – Retaliation

Retaliation against any person involved in an investigation, proceeding or hearing under this policy, including the reporting party, responding party, witnesses, or University personnel, is strictly prohibited. This includes retaliation from a third party on behalf of the reporting party, responding party, witnesses, or University personnel. The University defines retaliation as intimidation, threats, coercion, or discrimination against any person by for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations or this policy, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner (as a reporting party, responding party, witness or otherwise) in an investigation, proceeding, or hearing under this policy, including in an informal resolution process. Reports of retaliation should be directed to the Title IX Coordinator or Deputy Title IX Coordinators, who will then determine the most appropriate course of action.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance process under this policy does not constitute retaliation. At the same time, a determination contrary to a statement, alone, is not enough to conclude that any party made a false statement in bad faith.

The University further defines retaliation as any adverse action taken against an individual who has participated in any manner in an investigation, proceeding, or hearing under these policies and procedures. Retaliation can be further defined as intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by the Policy on Sex Discrimination, Sexual Harassment and Sexual Misconduct , 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.

The University's policy Sex Discrimination, Sexual Harassment and Sexual Misconduct found in Appendix E expressly prohibits retaliation. Retaliation against any person involved in an investigation, including the reporting party,

responding party, witnesses, or investigator(s) is strictly prohibited. This includes retaliation from a third party on behalf of the reporting party, responding parties, witnesses, or investigators.

Any retaliation against such individuals is subject to disciplinary or conduct action, including additional interim measures or other sanctions through the appropriate employee or student conduct systems. Reports of retaliation should be directed to the Title IX Coordinator or Deputy Title IX Coordinators, who will then determine the most appropriate course of action.

Registered Sex Offender Information

In accordance with the Campus Sex Crimes Prevention Act of 2000, which amends the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, the Jeanne Clery Act and the Family Educational Rights and Privacy Act of 1974, Utica University is providing a link to the New York State Sex Offender Registry. All sex offenders are required to register in the state of New York and to provide notice of each institution of higher education in New York at which the person is employed, carries a vocation or is a student. Individuals seeking to obtain information concerning Registered Sex Offenders may do so by accessing the New York State Sex Offender Registry's website at www.criminaljustice.ny.gov/nsor.

Programs to Prevent Dating Violence, Domestic Violence, Sexual Assault, and Stalking

Utica University is committed to creating and maintaining a safe and non-discriminatory learning, living, and working environment free from sexual assault, domestic violence, dating violence, and stalking (collectively, "Prohibited Conduct"). Prohibited Conduct will not be tolerated and will be grounds for disciplinary action up to and including expulsion from the University and termination of employment. Prohibited Conduct is defined in the university's Policy on Sex Discrimination, Sexual Harassment and Sexual Misconduct.

The University implements comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault, and stalking by and against members of the University community. The University intends that its Prevention Programs:

1. be culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research or assessed for value, effectiveness, or outcome; and

2. consider environmental risk and protective factors as they occur on the individual, relationship, University, community, and societal levels.

Prevention Programs include ongoing Prevention and Awareness Campaigns through multiple offices and departments including Campus Safety, Community Coordinated Response Team (CCRT), Behavioral Intervention Team (BIT).

Training

Responsible administrators, persons assigned as investigators, and individuals determining violations of this policy will receive annual training on relevant topics, including sexual harassment, sexual misconduct, stalking, domestic violence, and dating violence and how to conduct investigations and disciplinary proceedings that protect the safety of all parties and promote accountability to the University community.

The Title IX Coordinator will also endeavor to arrange training sessions for all members of the Utica University community about prevention of sexual harassment, sexual assault, and other forms of sexual misconduct. The Director of Victim Advocacy & Violence Prevention Initiatives, who leads the Community Coordinated Response Team will work closely with the Title IX Coordinator to deliver intentional programming. The intent of this training is to maintain an academic and work environment free of harassment. An environment that is free from sexual harassment and sexual misconduct provides for the opportunity for all individuals to reach their potential in the performance of their educational pursuits or assigned position.

Educational efforts are essential to sustain a university environment that is as free as possible of sexual harassment and sexual misconduct, that fosters respect for all individuals, and that observes high standards of conduct in consensual relationships. The primary goals to be achieved through education include:

- Ensuring that all individuals are aware of their rights.
- Notifying individuals of prohibited behaviors.
- Informing parties of the proper way to address complaints violations of this policy; and
- Maintaining a community awareness of the problems this policy addresses.

For the most current version of these policies and procedures, see:
https://www.utica.edu/policies/policies.cfm?action=category&category=1

Prevention Programs are programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions.

The University implements Awareness Programs which are comprehensive, intentional, and integrated community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to: prevent violence, promote safety, and reduce perpetration.

Many of these programs are coordinated through the CCRT. They consist of programming, initiatives, and strategies for students and employees that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing Prohibited Conduct using a range of strategies with audiences throughout the University and including information about:

- Dating violence, domestic violence, sexual assault and stalking, as those terms are defined by the Clery Act regulations, 34 C.F.R. § 668.46(a); the definitions of dating violence, domestic violence, stalking, and sexual assault under NY State criminal law; the definition of consent with respect to crimes relating to sexual activity in New York; and the information that is included in the Policy in accordance with Clery Act regulations, 34 C.F.R. § 668.46(b)(11) and 34 C.F.R. § 668.46(k)(2);

- Bystander Intervention – safe and positive options that may be carried out by an individual(s) to prevent harm or intervene when there is a risk of Prohibited Conduct. Bystander intervention includes, without limitation, recognizing situations of potential harm; understanding institutional structures and cultural conditions that facilitate violence; overcoming barriers to intervening; identifying safe and effective intervention options; and taking action to intervene; and

- Situational Awareness – to help create a mindset of attention to detail and nuance in the environment designed to decrease perpetration and bystander inaction, and to increase empowerment for Complainants to promote safety and to help individuals and communities address conditions that facilitate violence.

University students and employees may also review external resources regarding dating violence, domestic violence, sexual assault, and stalking by visiting the following websites:

- The Stalking Prevention, Awareness, and Resource Center (SPARC) ensures allied professionals have the specialized knowledge to identify and respond to the crime of stalking. SPARC provides ready-to-teach modules providing everything you need including PowerPoints and presenter guides. www.stalkingawareness.org

- The Battered Women's Justice Project (BWJP) is the national resource center on civil and criminal justice responses to intimate partner violence. BWJP provides training that translates research findings into ideas for implementation and facilitates the adoption of promising practices across the country. **www.bwjp.org**

- National Online Resource Center on Violence Against Women offers VAWnet, a comprehensive and accessible online collection of information and resources on domestic violence, sexual violence and related issues. The VAWnet library provides training tools and materials to support efforts in raising awareness, increasing capacity, and enhance efforts to prevent violence against women and intervene more effectively when it occurs: www.vawnet.org

Confidentiality and Campus Security Authorities (CSA)

Campus Safety encourages anyone who is the victim of or witness to any crime to promptly report the incident to Campus Safety or a law enforcement agency. The University's annual crime statistics do not include any personally identifiable information relating to a victim, suspect, or witness.

The Clery Act defines Campus Security Authorities (CSA's) as officials with responsibility for student and campus activities, such as a campus safety department, individuals who have responsibility for campus security, or individuals or offices designated to receive crime reports. Examples of CSA's include but are not limited to: Student Living/Student Staff (formerly "Resident Assistant" or RA's), Greek Life Advisors, Coaches & Athletic Directors, , as well as Faculty and Staff Advisors to student groups.

All employees except those granted confidential status by law (professional counselors, etc..) are required to report any crime(s) brought to their attention, regardless of how they learn of the incident. Confidentiality refers to specific professionals who only report an incident when the student provides consent to do so. Only those granted confidential status, *by law*, are not required to report an incident. Included employees are those whose designation and official role within the University is in counseling services and/or religious clergy. Campus "professional" counselors, including pastoral counselors, are not considered Campus Security Authorities and are therefore not

required to report crimes for inclusion in the annual disclosures required under The Clery Act. Professional Counselors are defined as those individuals who provide confidential psychological counseling to other individuals within the scope of their authority and official responsibilities as employees of Utica University.

Although these employees are considered confidential sources, they are encouraged, if appropriate, to advise persons being counseled of the procedures to report crimes on a voluntary and confidential basis for inclusion in the annual crime statistics. Employees who do not have responsibility for students and campus activity outside of the classroom are not obligated reporters of crimes under the Clery Act.

Please note that employees who do not have reporting responsibilities under the Clery Act are still required under Title IX to report any conduct potentially constituting sex discrimination (including sexual harassment) or other forms of sexual misconduct to a Title IX Coordinator.

Who is NOT a Campus Security Authority?

- Pastoral and Professional counselors
- Mental health counselors employed or under contract by the institution
- An employee uncertified but acting under the supervision of an exempt counselor.
- Faculty without responsibility for student or campus activities ***outside*** the classroom (no office hours, no advisor role, no outside classroom interaction)
- Staff including facilities personnel who are not directly linked to student groups or clubs
- Administrative assistants with no student interaction
- Food service workers

Confidential Resources

All members of the Utica University community have a number of resources available to discuss concerns or questions about sex discrimination (including sexual harassment) or other forms of sexual misconduct. Individuals who have experienced such conduct are encouraged to seek support for their physical and emotional needs.

A student seeking confidential emotional or medical care may contact the following:

Utica University Health & Wellness Center
Medical & Counseling Services
Student Wellness Center, Room 204 Strebel Student Center
(315) 792-3094
HWC@utica.edu

BetterMynd Virtual Counseling
Register/Login: http://bettermynd.com (use Utica email address)

-Free virtual counseling with licensed mental health providers
-Flexible appointment times, including evenings and weekends
-A diverse network of therapists so students can find a provider who best fills their needs
-24/7 emotional support through BetterMynd's Support Line, 844-287-6963

YWCA Mohawk Valley Hotline - Sexual Assault, Domestic Violence, Stalking*
Patricia Fraizer
(315) 982-8543
pfraizer@ywcamv.org

Note – these confidential sources are responsible for reporting non-identifiable statistics as required by the Clery Act

The health and counseling services noted above are available to Utica University students free of charge.

An employee seeking confidential emotional support may contact the University's employee assistance program:
1-800-EAP-CALL (1-800-327-2255)
www.nexgeneap.com / Company ID: 9000 (Needed only to create an account on website)

These resources afford students and employees the opportunity to discuss a concern or situation and the available options. These resources also offer the opportunity to gain information about the University's formal complaint procedures under this policy. These resources must share the following information:

That they are confidential, including when they are not required to notify the Title IX Coordinator about conduct that reasonably may constitute sex discrimination (including sexual harassment) or other forms of sexual misconduct.

How to contact the University's Title IX Coordinator and how to make a complaint of sex discrimination (including sexual harassment) or other forms of sexual misconduct

The Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under the grievance procedures.

Reports made to these resources will not be reported to other University officials in any personally identifiable manner (reports made to some of these individuals may result in a report to University officials that an incident occurred, but will not result in the reporting of any personally identifiable information), and, as a result, any individual making a report solely to such confidential resources should not expect action to be taken by the University against any alleged perpetrator. Similarly, if a victim discloses actions constituting a violation of this policy through public awareness events, such as "Take Back the Night" or another similar event or forum, Utica University is not obligated to begin an investigation. Utica University may, however, use the information to inform the need for additional education and prevention efforts.

Confidential reports of any form of sexual misconduct can also be made to off-campus resources, including:

YWCA Mohawk Valley Hotline - Sexual Assault, Domestic Violence, Stalking*
Oneida County: Call of Text (315) 797-7740
Herkimer County: Call of Text (315) 866-4120
www.YWCAMV.org/chat (Use chat for help after-hours or on weekends)

**Note – this confidential source is responsible for reporting non-identifiable statistics as required by the Clery Act*

Suicide/Crisis Services
24 Hour Hotline: Call 988 or Text HOME to 741741
Veterans Crisis line: Call 988 (Option 1) or Text 838255
Trevor Project (LGBTQ Resource): Call (866) 488-7386
NYS Office of Victim Services Hotline
Toll Free Number: 1-800-247-8035
https://ovs.ny.gov

National Domestic Violence Hotline
24-Hour Hotline: 1-800-799-7233

Text START to 88788
*Chat: **https://www.thehotline.org***

RAINN Hotline (National Sexual Assault Hotline)
24-Hour Hotline: 1-800-656-4673
Text HOPE to 66473
*Chat: **https://rainn.org/help-and-healing/hotline***
https://rainn.org

Crisis Services for Students, Faculty, Staff, and Contract Staff at Liverpool, NY site:
Vera House
723 James St.
Syracuse, NY 13203
Phone: (315) 425-0818
24-Hour Hotline: (315) 468-3260
(Sexual Assault Nurse Examination (SANE) services are provided to all area emergency rooms through Vera House)

Crisis Services for Students, Faculty, Staff, and Contract Staff at Latham, NY site:
New York State Coalition Against Sexual Assault
30 N. Greenbush Rd. Suite 3
Troy, NY 12180
Phone: (518) 482-4222

Crisis Services for Students, Faculty, Staff, and Contract Staff at St. Petersburg, FL sites: Suncoast Center, Inc.
PO Box 10970
St. Petersburg, FL 33733
Phone (appointments): (727) 388-1220
Hotline: (727) 530-7273

In addition to the resources listed above, Utica University shares a Memorandum of Understanding (MOU) with Mohawk Valley Health System, located in Utica, NY, and Oneida Health in Oneida, NY. These MOU's ensures that any member of the University community who is a victim of sexual assault will have access to a sexual assault examination by a sexual assault nurse examiner or through a physician referral to a sexual assault nurse examiner.

When an individual shares information with a confidential resource (on or off campus) as a confidential communication in the course of a protected relationship, the confidential resource cannot disclose the information (including information about whether an individual has received services) to any third party without the individual's written permission or unless permitted or required consistent with ethical or legal obligations. Accordingly, a report to a confidential resource is not a report to the University and will not result in an investigation or disciplinary action.

Non-Confidential Resources/Mandatory Reporters: University Personnel

All other University personnel are considered non-confidential. When they observe or learn about conduct potentially constituting sex discrimination (including sexual harassment) or other forms of sexual misconduct, they must respond as follows:

Responsible Administrators are officials at Utica University with the authority to institute corrective measures on the University's behalf. This includes:

I. Officers of the University (President, Provost, S/VP Financial Affairs, S/VP Academic Affairs)

II. Title IX Coordinator
III. Deputy Title IX Coordinator
IV. Vice President for Enrollment Management and Student Experience
V. Directors within Office of Student Living and The Office of Student Involvement and Leadership (SILO)
VI. Campus Safety

Even University 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 for the Title IX Coordinator to investigate and/or seek a resolution. Non-personally identifiable information may also be provided to the Director for Campus Safety to report statistical information about Clery reportable crimes.

A reporting party who is not satisfied with the attempts to resolve the misconduct may seek resolution through other sources, such as the New York State Division of Human Rights, the Equal Employment Opportunity Commission, the Office for Civil Rights, or the U.S. Department of Education.

Third Party Reports:

In cases where sex discrimination (including sexual harassment) or other sexual misconduct is reported by a third party (e.g. a faculty member, Student Living staff member, student organization advisor, etc.), the person identified as the target of the behavior will be notified by the Title IX Coordinator or, if appropriate, by one of the Deputy Title IX Coordinators, that a report has been received. Every effort will be made to meet with the individual to discuss her/his/their options and resources at the University and in the community.

Reporting Party Request for Confidentiality

In circumstances where a reporting party does not make a complaint, the reporting party may request that the University maintain the report as confidential. This type of request may be made if the reporting party does not want their identity known to the responding party and/or witnesses or wishes that the University not conduct an investigation or that action not be taken against an alleged perpetrator.

In situations where a reporting party makes such a request, the University's ability to investigate and respond to the allegations may be limited. If at any point the reporting party requests confidentiality and/or that action not be taken, the University will make reasonable attempts to comply with this request, but it is not required to honor these requests. The University may, in appropriate circumstances, decide it must move forward with an investigation and/or disciplinary process.

The University is required by Title IX and New York State law to weigh the reporting party's request for confidentiality and/or that no action be taken against the University's commitment to provide a reasonably safe and non-discriminatory environment. In evaluating such a request, the Title IX Coordinator will consider a range of factors, including, but not limited to:

- Whether the reporting party wants to participate in a formal process.
- The reporting party's reasonable safety concerns regarding initiation of a complaint.
- The risk that additional acts of Prohibited Conduct would occur if a complaint were not initiated.
- The severity and impact of the alleged Prohibited Conduct, including whether the Prohibited Conduct, if established, would require the removal of a responding party from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence.

- Whether the responding party has a history of violent behavior or is a repeat offender.
- The respective ages and relationship of the parties, including whether the respondent is an employee of the University.
- Whether the reporting party is a minor under the age of 18.
- Whether the responding party has admitted to the Prohibited Conduct.
- Whether there have been other Prohibited Conduct complaints about the responding party.
- Whether the reported incident represents escalation in unlawful conduct on behalf of the responding party from previously noted behavior.
- Whether the responding party has a history of arrests or records from a prior school indicating a history of violence.
- Whether the responding party allegedly threatened further Prohibited Conduct against the victim or others.
- The scope of the alleged Prohibited Conduct, including information suggesting a pattern, ongoing Prohibited Conduct, or Prohibited Conduct alleged to have impacted multiple individuals.
- Whether the Prohibited Conduct was allegedly committed by multiple individuals.
- Whether the Prohibited Conduct was allegedly perpetrated with a weapon or force.
- Whether the information provided suggests that the act is part of a larger pattern at a specific location or by a particular group.
- Whether information can be obtained by means other than from the impacted individual (e.g., by personnel or security cameras, witnesses, or through physical evidence).
- Whether the University could end the alleged Prohibited Conduct and prevent its recurrence without initiating a grievance procedure under this policy and/or
- The overall safety of the campus community (including the reporting party).

If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the reporting party/complainant or other person, or that the conduct as alleged prevents the University from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a complaint.

The Title IX Coordinator will notify the reporting party if the University cannot honor the reporting party's request for confidentiality and/or that no action be taken. As noted above, even University offices and employees who cannot guarantee confidentiality will maintain privacy to the greatest extent possible. Information provided to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution. Individuals participating in an investigation, proceeding, or hearing will be encouraged to maintain the privacy of the process in order to assist the University in conducting a thorough, fair, and accurate investigation. The University will take reasonable steps to prevent and address the parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through the processes contemplated by this policy; provided that such steps do not restrict the ability of the parties to obtain and present evidence, to speak to witnesses, to consult with their family members, Confidential Resources, or advisors, or otherwise prepare for or participate in a process. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of Prohibited Conduct are also authorized.

Supportive Measures

In certain cases, investigators may recommend that supportive measures be put in place, before the investigation is completed and/or pending completion of the investigation, to ensure the safety of all parties and/or the University community and to ensure the integrity of the investigation. In cases involving only students, the appropriate Division of Enrollment and the Student Experience staff will be responsible for ensuring that the recommended measures are taken. In cases involving employees or third parties, the Office of Human Resources will be responsible for ensuring that the recommended measures are taken. The University will review the facts and circumstances of each case, as well as the reporting party's wishes, in deciding whether and what steps are reasonable and appropriate.

If supportive measures are put in place, the Title IX Coordinator will communicate the measures to all affected parties. Implementing supportive measure(s) does not imply a future finding of responsibility but is meant to create a safer environment. Examples of supportive measures for students may include (but are not limited to) contact restrictions through the issuance of a no-contact order, the transfer of the reporting party or responding party to different classes, transportation arrangements, and/or changing residence hall assignments. Supportive measures for employees may include (but are not limited to) the transfer of the reporting party or responding party to a different department, alternative scheduling or reporting arrangements, and/or transportation arrangements. In cases involving third parties (vendors, contingent employees, clients, and consultants), examples of supportive measures may include (but are not limited to) the temporary reassignment of the third-party employee or a temporary suspension of services.

In situations where the University becomes aware of a pattern of behavior by one of more responding parties, the University will take appropriate action to protect the University community. Such action may include supportive actions involving individual students or safety measures intended to address broader campus-wide concerns, such as escorts or increased monitoring of an area. The University may impose a suspension from the campus or parts of the campus, pending the outcome of an investigation and disciplinary proceeding. Failure to comply with the restrictions of any supportive measures is a violation of this policy and may result in disciplinary action.

Upon request, the reporting party or responding party may request a prompt review of the need for and terms of any interim measures imposed that directly affects him/her, including the potential addition, modification or elimination of those measures. Such a request may be made by submitting a written request for review to the Vice President of Enrollment and the Student Experience, providing the basis for that request and any evidence in support of the request. Upon receipt of such a request, the Vice President of Enrollment and the Student Experience will inform the other party of the request and allow the other party to respond, including submitting evidence if desired. The Vice President of Enrollment and the Student Experience may, in his/her discretion, modify or suspend the supportive measures on a temporary basis while the parties are submitting their information and responses. The Vice President of Enrollment and the Student Experience will respond to any such requests as soon as possible, but generally no later than one calendar week of the request and the parties' submission of any evidence. The Vice President of Enrollment and the Student Experience will consult with the Title IX Coordinator throughout the review process.

For cases where supportive measures are put in place for employees, the reporting or responding party may submit a written request for a review of the measures to the Director of Human Resources. Upon receipt of such a request, the Director of Human Resources will inform the other party of the request and allow the other party to respond, including submitting evidence if desired. The Director of Human Resources may, in his/her discretion, modify or suspend the supportive measures on a temporary basis while the parties are submitting their information and responses. The Director of Human Resources will respond to any such requests as soon as possible, but generally no later than one calendar week of the request and the parties' submission of any evidence. The Director of Human Resources will consult with the Title IX Coordinator throughout the review process.

Pastoral and Professional Counselors

In accordance with the Clery Act, professional counselors are not considered campus security authorities (i.e., they are not required to report crimes for Clery statistics). The term "professional counselor" means a university employee whose official responsibilities include providing mental health counseling to members of the University community and who is functioning within the scope of his/her license or certification. The University does not have procedures for encouraging professional counselors, if they deem appropriate, to notify persons whom they are counseling of the voluntary, anonymous reporting options to ensure that an incident is included in the University's annual disclosure of crime statistics, or for the purposes of issuing a timely warning.
The University does not employ pastoral counselors. Pastoral counselors not employed by the university are not obligated to report crimes to Campus Safety. In addition, the university does not have procedures that encourage pastoral counselors to inform persons they are counseling of the University's procedures to report crimes on a voluntary, anonymous basis for inclusion in the University's annual disclosure of crime statistics, or for the purposes of issuing a timely warning.

Annual Disclosure of Crime Statistics

The Title IX and Clery Coordinator is responsible for preparing and distributing the Annual Security and Fire Safety Report to comply with the Clery Act. The Annual Security and Fire Safety Report is published and distributed every year by October 1st. The Annual Security and Fire Safety Report includes statistics for the previous three years concerning reported crimes that occurred on the university's Clery geography. Statistics for Clery Act offenses that did not occur within Clery geography are not included in the university's Clery Act crime statistics even if university students or employees were involved.

The Clery Coordinator prepares the Annual Security and Fire Safety Report, including the annual disclosure of crime, arrest, and referral statistics, with input from various sources, including Campus Safety; the university's Office of Title IX; the university's Division of Student Living; university Campus Security Authorities (CSAs); and local law enforcement agencies, including the City of Utica Police Department. The Clery Coordinator works to reconcile statistics from the Office of Title IX and the Office of Student Conduct to reduce the instance of missing or double counting incidents.

For statistical purposes, crime statistics reported to any CSA are recorded in the calendar year in which the crime was reported. The statistics represent offenses that were reported to any of those sources, regardless of whether the alleged offense was investigated or whether there was a finding of guilt or responsibility. In order to collect reported crime information occurring at non-campus properties during student school sponsored travel, a travel form is listed on the Clery website for travel leaders to complete and submit. This information is used to request reported crime information from local law enforcement agencies with jurisdiction over the areas considered to be non-campus property. The university does not directly collect statistics from the Student Health Center or the Counseling Center on campus due to the confidentiality of licensed professional counselors and certified medical professionals. Any requested statistics from those entities would lack enough information to reconcile the statistics with our incidents already reported and puts the university at risk of double counting Clery reportable crimes.

The Clery Coordinator submits the crime statistics published in the Annual Security and Fire Safety Report to the United States Department of Education (ED), who make crime statistics available to the public through the ED website. In addition, a copy of the Annual Security and Fire Safety Report and a daily crime log are available for review on the university's Clery Act website. The university provides an electronic notice of availability of the Annual Security and Fire Safety Report to: (1) all current university faculty, staff, and students; and (2) prospective university students, faculty, and staff.

In compliance with the Clery Act, the university shares the crime statistics contained in **Appendix A**.

Definition of Terms

Aggravated Assault: An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by a means likely to produce death or great bodily harm. (It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used that could and probably would result in serious personal injury if the crime were successfully completed).

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

Burglary: The unlawful entry of a structure to commit a felony or theft. For reporting purposes this definition includes unlawful entry with intent to commit a larceny or felony, breaking and entering with intent to commit a larceny, housebreaking, safecracking, and all attempts to commit any of the aforementioned acts.

Campus Security Authority (CSA): The Department of Education defines a campus security authority (CSA) as the following:

1. A campus police department or a campus security department of an institution.
2. Any individual or individuals who have responsibility for campus security but who do not constitute a campus police department or a campus security department under paragraph (i) of this definition, such as an individual who is responsible for monitoring entrance into institutional property.
3. Any individual or organization specified in an institution's statement of campus security policy as an individual or organization to which students and employees should report criminal offenses.
4. An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings. If such an official is a pastoral or professional counselor as defined below, the official is not considered a campus security authority when acting as a pastoral or professional counselor.

Clery Act: The Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act.

Clery Geography: Property for which the university is required to report crime statistics pursuant to the Clery Act (i.e., On-Campus buildings or property, Non-Campus buildings or property, and Public Property).

Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the following factors:

1. length of the relationship
2. type of relationship
3. frequency of interaction between the persons involved in the relationship.

For the purpose of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

Domestic Violence: A felony or misdemeanor crime of violence committed by:

1. Current or former spouse or intimate partner of the victim
2. Person with whom the victim shares a child in common.

3. Person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner
4. Person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
5. Other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime occurred.

Destruction/Damage/Vandalism of Property (except Arson): To willfully or maliciously damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

Disciplinary Referral(s): Those individuals referred to the university's Office of Student Conduct and Community Standards (OSCC) or Human Resources (HR), for liquor law, drug law, and illegal weapon law violations. The numbers include incidents that are reported via Campus Safety/Guardian incident reports and reports provided to the OSCC or HR from other members of the university community.

Drug Abuse Violations: The violation of laws prohibiting the production, distribution, and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation, or importation of any controlled drug or narcotic substance. Arrests for violations of State and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances include opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics (Demerol, methadone); and dangerous non-narcotic drugs (enzedrines, enzedrine).

Hate Crime: A criminal offense that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim.

- **Race:** A preformed negative attitude toward a group of persons who possess common physical characteristics.
- **Gender:** A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender, e.g., male or female
- **Gender Identity:** A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender identity, e.g., bias against transgender or gender non-conforming individuals.
- **Religion:** A preformed negative opinion or attitude toward a person or group of persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being
- **Sexual Orientation:** A preformed negative opinion or attitude toward a group of persons based on their actual or perceived sexual attraction toward, and responsiveness to, members of their own sex or members of the opposite sex
- **Ethnicity:** A preformed negative opinion or attitude toward a group of people whose members identify with each other, through a common heritage, often consisting of a common language, common culture (often including a shared religion) and/or ideology that stresses common ancestry
- **National Origin:** A preformed negative opinion or attitude toward a group of people based on their actual or perceived country of birth
- **Disability:** A preformed negative opinion or attitude toward a group of persons based on their physical or mental impairments/challenges, whether such disability is temporary or permanent, congenital or acquired by heredity, accident, injury, advanced aged or illness.

Hazing: any intentional, knowing, or reckless act committed by a person (whether individually or in concert with other persons) against another person or persons regardless of the willingness of such other person or persons to participate, that:

1. is committed in the course of an initiation into, an affiliation with, or the maintenance of membership in, a student organization; and
2. causes or creates a risk, above the reasonable risk encountered in the course of participation in the institution of higher education or the organization (such as the physical preparation necessary for participation in an athletic team), of physical or psychological injury including-

- whipping, beating, striking, electronic shocking, placing of a harmful substance on someone's body, or similar activity;
- causing, coercing, or otherwise inducing sleep deprivation, exposure to the elements, confinement in a small space, extreme calisthenics, or other similar activity;
- causing, coercing, or otherwise inducing another person to consume food, liquid, alcohol, drugs, or other substances;
- causing, coercing, or otherwise inducing another person to perform sexual acts;
- any activity that places another person in reasonable fear of bodily harm through the use of threatening words or conduct;
- any activity against another person that includes a criminal violation of local, State, Tribal, or Federal law; and
- any activity that induces, causes, or requires another person to perform a duty or task that involves a criminal violation of local, State, Tribal, or Federal law.

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

Intimidation: To unlawfully place another person in reasonable fear of bodily harm using threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

Larceny – Theft: The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. Attempted larcenies are included. Embezzlement, confidence games, forgery, worthless checks, etc., are excluded.

Liquor Law Violations: The violation of laws or ordinances prohibiting: the manufacture, sale, transporting, furnishing, possessing of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating a still; furnishing liquor to a minor or intemperate person; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; and all attempts to commit any of the aforementioned activities (Public Intoxication and driving under the influence are not included in this definition).

Motor Vehicle Theft: The theft or attempted theft of a motor vehicle. (Includes all cases where automobiles are taken by persons not having lawful access even though the vehicles are later abandoned, including joyriding).

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

Manslaughter by Negligence: The killing of another person through gross negligence.

Non-Campus: Any building or property owned or controlled by a student organization that is officially recognized by the institution; or any building or property owned or controlled by an institution that is being used in direct support of, or in relation to, the institution's educational purposes, is frequented by students and is not within the same reasonably contiguous geographic area of the institution.

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

to the geographic area that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).

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

NOTE: The Clery Act does not require disclosure of crime statistics for public property that surrounds Non-Campus buildings or property.

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

Sexual Assault: An offense that meets the definition of rape, fondling, incest, or statutory rape as used in FBI's Uniform Crime Reporting (UCR) program. Per the National Incident-Based Reporting System User Manual from the FBI UCR Program, **a sex offense** is any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This offense includes the rape of both males and females.

Criminal Sexual Contact: The intentional touching of another person's clothed or unclothed body parts without consent for the purpose of sexual degradation, gratification, or humiliation. This definition explicitly applies when the victim is incapable of giving consent due to age, mental or physical impairment (temporary or permanent).

Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent.

Simple Assault: An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.

Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

1. Fear for individual safety or the safety of others; or
2. Suffer substantial emotional distress. For the purposes of this definition:
    a. Course of conduct means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third 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.
    b. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
    c. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

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

Appendix A – Annual Crime Statistics

Utica University believes that an informed public is a safety-conscious public. The following statistics are provided in compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. The following statistics reflect a university population of approximately 3,000 students and 700 employees.

Please contact the Title IX and Clery Coordinator at (315) 792-3063 or the Director of Campus Safety at (315) 792-3201 with questions or concerns.

Statistics for Utica, NY Campus

OFFENSE	YEAR	Total On Campus	On Campus Student Housing Only	Non- Campus Property	Public Property
Murder/Non - Negligent Manslaughter	2023	0	0	0	0
	2024	0	0	0	0
	2025	0	0	0	0
Negligent Manslaughter	2023	0	0	0	0
	2024	0	0	0	0
	2025	0	0	0	0
Rape	2023	0	0	0	0
	2024	0	0	0	0
	2025	2	2	0	0
Criminal Sexual Contact (Fondling)	2023	2	0	0	1
	2024	0	0	0	0
	2025	0	0	0	0
Incest	2023	0	0	0	0
	2024	0	0	0	0
	2025	0	0	0	0
Statutory Rape	2023	0	0	0	0
	2024	0	0	0	0
	2025	0	0	0	0
Robbery	2023	0	0	0	0
	2024	0	0	0	0
	2025	0	0	0	0
Aggravated Assault	2023	0	0	0	0
	2024	0	0	0	0
	2025	0	0	1	0

Burglary	2023	0	0	0	1
	2024	0	0	0	0
	2025	0	0	1	0
Motor Vehicle Theft	2023	0	0	0	1
	2024	0	0	0	0
	2025	6	0	1	0
Arson	2023	0	0	0	0
	2024	0	0	0	0
	2025	0	0	0	0
Weapons Law: Arrests	2023	0	0	0	0
	2024	0	0	0	0
	2025	0	0	0	0
Weapons Law: Disciplinary Referral	2023	0	0	0	1
	2024	1	1	0	0
	2025	1	1	0	0
Drug Abuse: Arrests	2023	0	0	0	0
	2024	0	0	0	0
	2025	0	0	1	0
Drug Abuse: Disciplinary Referral	2023	41	41	0	0
	2024	22	22	0	0
	2025	40	36	0	0
Liquor Law: Arrests	2023	0	0	0	0
	2024	0	0	0	0
	2025	0	0	0	0
Liquor Law: Disciplinary Referral	2023	53	49	0	0
	2024	55	55	0	0
	2025	51	51	0	0
Hazing	2023	N/A	N/A	N/A	N/A
	2024	N/A	N/A	N/A	N/A
	2025	0	0	0	0
Dating Violence	2023	0	0	0	0
	2024	1	1	0	0
	2025	0	0	0	0
Domestic Violence	2023	0	0	0	0
	2024	0	0	0	0
	2025	0	0	0	0

Stalking	2023	0	0	0	0
	2024	3	0	0	0
	2025	4	0	0	0

Note: For 2025, 1 Sex Offense Statistic was provided by the Utica Police Department, but was not available in a usable format for Clery Act reporting. It is not listed in the above chart.

- There were no reported Hate Crimes for the years 2023, 2024, or 2025 on the Utica Campus.
- There were no unfounded crimes in 2023, 2024, or 2025 on the Utica Campus.
- The Utica University campus is in more than one jurisdiction. The data above includes information from the jurisdictions that reported in 2023, 2024, or 2025 and included the Utica, New Hartford, New York Mills, Whitestown, and Yorkville Police Departments as well as the Oneida County Sheriff's Office, and NYSP.
- Reported crimes may involve individuals not associated with the institution.

Additional Campus Details:

- Clark City Center, located at 181 Genesee St, Utica, NY was owned and operated by Utica University until August 2025.
- Utica University Operates out of the NBT Bank Arena (previously known as the Adirondack Bank Center) and the Nexus Center. The NBT Bank Arena's address is 400 Oriskany St W, Utica, NY 13502, and the Nexus Center's address is 300 Oriskany St W, Utica, NY 13502.

Statistics for Syracuse, NY Campus

OFFENSE	YEAR	Total On Campus	On Campus Student Housing Only	Non- Campus Property	Public Property
Murder/Non - Negligent Manslaughter	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Negligent Manslaughter	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Rape	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Criminal Sexual Contact (Fondling)	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Incest	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Statutory Rape	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Robbery	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Aggravated Assault	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Burglary	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Motor Vehicle Theft	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0

Arson	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Weapons Law: Arrests	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Weapons Law: Disciplinary Referral	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Drug Abuse: Arrests	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Drug Abuse: Disciplinary Referral	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Liquor Law: Arrests	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Liquor Law: Disciplinary Referral	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Hazing	2023	N/A	N/A	N/A	N/A
	2024	N/A	N/A	N/A	N/A
	2025	0	N/A	N/A	0
Dating Violence	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Domestic Violence	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Stalking	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0

- There were no reported Hate Crimes for the years 2023, 2024, or 2025 on the Syracuse Campus.
- There were no unfounded crimes in 2023, 2024, or 2025 on the Syracuse Campus.
- There are no on-campus housing facilities associated with the Syracuse campus.

- The Syracuse campus is located within the Onondaga County Sheriff's Department jurisdiction.

Additional Campus Details:

- Syracuse operations shifted to the Utica University Main Campus in February 2025.

Statistics for Latham, NY Campus

Offense	Year	On Campus	On Campus Student Housing Only	Non- Campus Property	Public Property
Murder/Non - Negligent Manslaughter	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Negligent Manslaughter	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Rape	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Criminal Sexual Contact (Fondling)	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Incest	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Statutory Rape	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Robbery	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Aggravated Assault	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Burglary	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Motor Vehicle Theft	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Arson	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Weapons Law: Arrests	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0

Weapons Law: Disciplinary Referral	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Drug Abuse: Arrests	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Drug Abuse: Disciplinary Referral	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Liquor Law: Arrests	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Liquor Law: Disciplinary Referral	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Hazing	2023	N/A	N/A	N/A	N/A
	2024	N/A	N/A	N/A	N/A
	2025	0	N/A	N/A	0
Dating Violence	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Domestic Violence	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Stalking	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0

- There were no reported Hate Crimes for fall 2023, 2024 or 2025 on the Latham NY Campus.
- There were no unfounded crimes in 2023, 2024 or 2025 on the Latham Campus.
- There are no University housing ("on-campus") facilities associated with the Latham Campus.
- The Latham campus is located within the Town of Colonie Police Department jurisdiction.

Additional Campus Details:

- The Latham Campus began operations in Fall 2022.

Statistics for Miramar, FL Campus

OFFENSE	YEAR	Total On Campus	On Campus Student Housing Only	Non-Campus Property	Public Property
Murder Non-Negligent Manslaughter	2023	0	N/A	N/A	0
	2024	N/A	N/A	N/A	N/A
	2025	N/A	N/A	N/A	N/A
Negligent Manslaughter	2023	0	N/A	N/A	0
	2024	N/A	N/A	N/A	N/A
	2025	N/A	N/A	N/A	N/A
Rape	2023	0	N/A	N/A	0
	2024	N/A	N/A	N/A	N/A
	2025	N/A	N/A	N/A	N/A
Criminal Sexual Contact (Fondling)	2023	0	N/A	N/A	0
	2024	N/A	N/A	N/A	N/A
	2025	N/A	N/A	N/A	N/A
Incest	2023	0	N/A	N/A	0
	2024	N/A	N/A	N/A	N/A
	2025	N/A	N/A	N/A	N/A
Statutory Rape	2023	0	N/A	N/A	0
	2024	N/A	N/A	N/A	N/A
	2025	N/A	N/A	N/A	N/A
Robbery	2023	0	N/A	N/A	0
	2024	N/A	N/A	N/A	N/A
	2025	N/A	N/A	N/A	N/A
Aggravated Assault	2023	0	N/A	N/A	0
	2024	N/A	N/A	N/A	N/A
	2025	N/A	N/A	N/A	N/A
Burglary	2023	0	N/A	N/A	1
	2024	N/A	N/A	N/A	N/A
	2025	N/A	N/A	N/A	N/A
Motor Vehicle Theft	2023	0	N/A	N/A	0
	2024	N/A	N/A	N/A	N/A
	2025	N/A	N/A	N/A	N/A
Arson	2023	0	N/A	N/A	0
	2024	N/A	N/A	N/A	N/A
	2025	N/A	N/A	N/A	N/A
Weapons Law: Arrests	2023	0	N/A	N/A	0
	2024	N/A	N/A	N/A	N/A
	2025	N/A	N/A	N/A	N/A

Weapons Law: Disciplinary Referral	2023	0	N/A	N/A	0
	2024	N/A	N/A	N/A	N/A
	2025	N/A	N/A	N/A	N/A
Drug Abuse: Arrests	2023	0	N/A	N/A	0
	2024	N/A	N/A	N/A	N/A
	2025	N/A	N/A	N/A	N/A
Drug Abuse: Disciplinary Referral	2023	0	N/A	N/A	0
	2024	N/A	N/A	N/A	N/A
	2025	N/A	N/A	N/A	N/A
Liquor Law: Arrests	2023	0	N/A	N/A	0
	2024	N/A	N/A	N/A	N/A
	2025	N/A	N/A	N/A	N/A
Liquor Law: Disciplinary Referral	2023	0	N/A	N/A	0
	2024	N/A	N/A	N/A	N/A
	2025	N/A	N/A	N/A	N/A
Hazing	2023	N/A	N/A	N/A	N/A
	2024	N/A	N/A	N/A	N/A
	2025	N/A	N/A	N/A	N/A
Dating Violence	2023	0	N/A	N/A	0
	2024	N/A	N/A	N/A	N/A
	2025	N/A	N/A	N/A	N/A
Domestic Violence	2023	0	N/A	N/A	0
	2024	N/A	N/A	N/A	N/A
	2025	N/A	N/A	N/A	N/A
Stalking	2023	0	N/A	N/A	0
	2024	N/A	N/A	N/A	N/A
	2025	N/A	N/A	N/A	N/A

- There were no reported Hate Crimes for the years 2023 on the Miramar campus. (Note: the campus was not open for 2024 or 2025)
- There were no unfounded crimes in 2023 on the Miramar campus. (Note: the campus was not open for 2024 or 2025)
- There are no on-campus housing facilities associated with either Florida campus.
- The Florida campuses are located within the City of St. Petersburg and the City of Miramar.
- Both sites are fully within their respective local City Police Department jurisdictions.

Additional Campus Details:

- Utica University operations concluded at the Miramar campus in August 2023.

Statistics for St. Petersburgh, FL Campus

Offense	Year	On Campus	On Campus Student Housing Only	Non- Campus Property	Public Property
Murder/Non-Negligent Manslaughter	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Negligent Manslaughter	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Rape	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Criminal Sexual Contact (Fondling)	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Incest	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Statutory Rape	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Robbery	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Aggravated Assault	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Burglary	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Motor Vehicle Theft	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Arson	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Weapons Law: Arrests	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0

Weapons Law: Disciplinary Referral	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Drug Abuse: Arrests	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Drug Abuse: Disciplinary Referral	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Liquor Law: Arrests	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Liquor Law: Disciplinary Referral	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Hazing	2023	N/A	N/A	N/A	N/A
	2024	N/A	N/A	N/A	N/A
	2025	0	N/A	N/A	0
Dating Violence	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Domestic Violence	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0
Stalking	2023	0	N/A	N/A	0
	2024	0	N/A	N/A	0
	2025	0	N/A	N/A	0

Note: For 2025, statistics were provided by the St. Petersburg Police Department, but were not available in a usable format for Clery Act reporting. They are not listed in the above chart.

- There were no reported Hate Crimes for the years 2023, 2024, or 2025 on the St. Petersburg Campus.
- There were no unfounded crimes in 2023, 2024, or 2025 on the St. Petersburg Campus.
- There are no on-campus housing facilities associated with either Florida campus.
- The Florida campuses are located within the City of St. Petersburg and the City of Miramar
- Both sites are fully within their respective local City Police Department jurisdictions.

Additional Campus Details:

- Utica University operations concluded at the St. Petersburgh campus in August 2026.

Appendix B: Annual Fire Statistics

Utica University is mandated by federal and state law to prepare an annual fire safety report disclosing various statistics, policies and procedures concerning incidents of fires in/on campus housing, as well as its fire safety, evacuation and education policies and procedures.

The following are fire statistics for each on campus student housing facility for the three (3) most recent calendar years (2023, 2024, 2025):

2023						
Residence Hall	**Total # of Fires**	**Case Number**	**Cause of Fire**	**Number of Injuries**	**Number of Deaths**	**Value of Property Damage**
Alumni	0	N/A	N/A	N/A	N/A	N/A
Bell	0	N/A	N/A	N/A	N/A	N/A
Tower	0	N/A	N/A	N/A	N/A	N/A
Boehlert	0	N/A	N/A	N/A	N/A	N/A
North	0	N/A	N/A	N/A	N/A	N/A
South	0	N/A	N/A	N/A	N/A	N/A
Pioneer Village A	0	N/A	N/A	N/A	N/A	N/A
Pioneer Village B	0	N/A	N/A	N/A	N/A	N/A
Pioneer Village C	0	N/A	N/A	N/A	N/A	N/A

2024						
Residence Hall	**Total # of Fires**	**Case Number**	**Cause of Fire**	**Number of Injuries**	**Number of Deaths**	**Value of Property Damage**
Alumni	0	N/A	N/A	N/A	N/A	N/A
Bell	0	N/A	N/A	N/A	N/A	N/A
Tower	0	N/A	N/A	N/A	N/A	N/A
Boehlert	0	N/A	N/A	N/A	N/A	N/A
North	0	N/A	N/A	N/A	N/A	N/A
South	0	N/A	N/A	N/A	N/A	N/A
Pioneer Village A	0	N/A	N/A	N/A	N/A	N/A
Pioneer Village B	0	N/A	N/A	N/A	N/A	N/A
Pioneer Village C	0	N/A	N/A	N/A	N/A	N/A

2025						
Residence Hall	**Total**	**Case Number**	**Cause of Fire**	**Number of Injuries**	**Number of Deaths**	**Value of Property Damage**
Alumni	0	N/A	N/A	N/A	N/A	N/A
Bell	1	22435	Motor	0	0	See Below
Boehlert	1	23295	Burnt Food	0	0	$0.00
North	0	N/A	N/A	N/A	N/A	N/A
South	0	N/A	N/A	N/A	N/A	N/A
Tower	0	N/A	N/A	N/A	N/A	N/A
Pioneer Village A	1	23338	Burnt Food	0	0	$0.00
Pioneer Village B	1	22718	Stove Issue	0	0	See Below
Pioneer Village C	2	22576	Burnt Food	0	0	$0.00
		23366	Burnt Food	0	0	$0.00

Case 22435: Megan Belfield stated “After doing some research, I don't see that we paid for any repairs for this fan motor. Which makes me think ABM was able to repair this themselves, without bringing in an outside vendor.”

Case 22718: Lauren Wilson sent me Shane’s (Maintenance for Pioneer Village) reply. “So, in regard to the stove, we never charged anyone or took action on it that we can find.”

Appendix C: Fire Safety Systems

Residence Halls are equipped with fire alarm systems providing notification to student residents, visitors, and staff through audible alarm and strobe lights. Each residence hall is equipped with fire extinguishers. All Fire extinguishers on the campus are inspected throughout the calendar year in compliance with local and state law.

- A fire/safety inspection of the residence halls is conducted each fall and spring semester by the Office of Campus Safety with assistance from the residence hall staff.
- Utica University conducted four (4) fire drills in the calendar year 2025 for all residence halls.
    - 4/14/2025
    - 8/28/2025
    - 9/30/2025
    - 10/09/2025

Smoking and open flames are prohibited in the residence halls. Unless approved by Facilities management, the use of portable electronic appliances is also prohibited in residence halls.

The following procedures are used for student housing evacuation in the case of a fire:

- Campus Safety Officers respond immediately to the building to assist with evacuation.
- If the fire department has not arrived, Campus Safety will initiate and proceed with evacuation procedures with assistance from professional Student Living staff.
- Once the building has been cleared by the fire department, individuals will be permitted to re-enter the building.

In the event of a fire, activate a nearby fire alarm pull station, and then complete the following:

- Contact Campus Safety at 315-792-3046.
- For a life-threatening emergency, call 911 first and tell which room, floor, and building you are in then call Campus Safety (315-792-3046).

All persons must evacuate the building through the nearest safe exit when a fire alarm sounds.

Students and staff are trained to:

- Become familiar with your buildings. Know the location of emergency exits.
- Remain calm. Try to keep others calm.
- Use fire pull stations located in all buildings if a fire is found and the alarm has not sounded yet, or if there is an emergency that requires building evacuation.
- Exit the building using stairwells. NEVER use the elevators. Evacuate by the safest and nearest building exit. Close all doors behind you.
- Proceed to designated meeting area(s) and/or keep at least 100 ft. from the building.
- Notify Campus Safety or the fire department of any disable, trapped, or injured persons.
- NEVER re-enter the building until the all-clear has been given by Campus Safety or the fire department.

Fire safety education and training is provided annually to all students and employees. Copies of the written training and education materials can be obtained by contacting the Office of Campus Safety.

Any individual who becomes aware of a fire or a fire related injury or death should report such fire, injury or death to the Office of Campus Safety immediately.

Fire Safety Systems in Student Housing

Residence Hall	Proprietary Fire Alarm Systems	Full Sprinkler Systems	Smoke Detection	Fire Extinguishers	Evacuation Plans Posted	# (Fire) drills each academic year
Alumni	X	X	X	X	X	4
Bell	X	X	X	X	X	4
Boehlert	X	X	X	X	X	4
North	X	X	X	X	X	4
South	X	X	X	X	X	4
Tower	X	X	X	X	X	4
Pioneer Village A	X	X	X	X	X	4
Pioneer Village B	X	X	X	X	X	4
Pioneer Village C	X	X	X	X	X	4

Appendix D: Non-Discrimination Policy

Non-Discrimination Policy

Utica University is an equal opportunity, affirmative action institution, and accepts students and employs individuals without regard to race, creed, color, sex, pregnancy, ethnic or national origin, religion, marital status, age, sexual orientation, gender identity, gender expression, veteran status, disability, citizenship status, genetic predisposition, domestic violence victim status, or protected status under applicable local, state, or federal law. This nondiscrimination policy covers admissions, employment, and access to and treatment in Utica University programs, services, and activities.

This policy applies to all terms and conditions of employment including, but not limited to, recruiting, hiring, placement, promotion, termination, layoff, transfer, leave of absence, compensation, benefits, training, and social and recreational programs. The 504 ADA Compliance Officer at Utica University is Kristin Phelps, Director for Human Resources (315) 792-3276.

Utica University has designated the Director of Human Resources and in the Office of Human Resources (315-792-3276) as the individual responsible for inquiries, complaints, and coordination of compliance for employees under the Americans with Disabilities Act of 1990 (as amended).

Utica University has designated the Director of Learning Services in the Office of Learning Services (315-792-3032) as the individual responsible for inquiries, complaints, and coordination of compliance under the Americans with Disabilities Act of 1990 (as amended) and Section 504 of the Rehabilitation Act of 1973 on behalf of students.

Appendix E: Sexual Harassment and Sexual Misconduct Policy (Current Policy)

POLICIES AND PROCEDURES

Sexual Harassment and Sexual Misconduct

(Effective prior to August 1, 2024 and after January 1, 2025)

POLICY

Utica University is committed to providing a learning and working environment in which all interpersonal relationships are based upon respect and dignity. Therefore, in accordance with Title IX of the Education Amendments Act of 1972 (Title IX), the Clery Act, the Violence Against Women Act, and New York Education Law Article 129-B, Utica University will not tolerate sexual harassment or sexual misconduct, which are forms of discrimination on the basis of sex, that include any of the following when they impact or have the potential to impact the educational or employment environment of any members of the University community: sexual harassment; harassment based on gender identity, gender expression, or transgender status; sexual assault; domestic or dating violence; or stalking.

Utica University endeavors to provide a fair, impartial, and prompt response when sexual harassment and/or sexual misconduct is alleged to have occurred within the University community. Reports of sexual harassment or sexual misconduct will be promptly and thoroughly investigated either through a process based on Title IX regulations, if applicable, or through an alternative investigative process.

Individuals who are found to have been engaged in sexual harassment or sexual misconduct will be sanctioned following guidelines established in the applicable handbook, contract, or policy. More specifically, any individual who engages in such behavior will be subject to disciplinary action through the appropriate disciplinary process.

The University encourages any individuals covered by this policy who believe they are the victim of sexual harassment or sexual misconduct to report it and to take steps to preserve evidence, as it may be helpful in criminal and/or University disciplinary proceedings. Individuals who believe they are a victim of sexual harassment or sexual misconduct have the option of filing a report with the University, with local law enforcement, or with both. Those wishing to notify local law enforcement authorities will be assisted in doing so. Because the standards for finding a violation of criminal law are different from the standards in this policy, criminal investigations or reports will not determine whether or not a violation of this University policy has occurred.

For the purposes of this policy, the word “campus” refers to any property leased or owned by Utica University.

SCOPE

This policy and its procedures apply to all Utica University students, faculty, and staff members. In addition, independent contractors, vendors, visitors, volunteers, alumni, and other guests of the University are expected to comply with this policy. This policy covers all academic, educational, co-curricular, athletic, and other University programs, including those that may take place off campus. Conduct that occurs off campus and not in connection with University programs may violate this policy if the conduct creates a threatening or hostile environment on campus or within a University program or if the incident causes concern for the safety or security of the University’s campus. This policy also applies regardless of the reporting party’s or responding party’s race, creed, color, sex, pregnancy, ethnic or national origin, religion, marital status, age, sexual orientation, gender identity, gender expression, veteran status, disability, citizenship status, genetic predisposition, domestic violence victim status, or other protected status under applicable local, state, or federal law.

One or more of the University’s personnel policies or faculty and staff handbook policies may overlap with this policy in a particular situation. The processes described in this policy apply to any situation where a student is the reporting party or responding party (as defined below). In all other situations, the University reserves the right to apply this process or another applicable University policy or process. The University will apply this process to any situation where the University determines that Title IX requires the application of this process.

REASON FOR POLICY

Utica University has an ethical and legal obligation to create a working and learning environment free from all forms of discrimination and harassment, including sexual assault, dating violence, domestic violence, stalking, or any other form of sexual misconduct, and is committed to fostering a healthy and safe environment in which every member of the University community can realize their fullest potential. This policy has been developed to reaffirm these principles, to define community expectations, to establish a mechanism for determining when those expectations have been violated, and to provide recourse for those individuals whose rights have been violated.

The cost of sexual harassment and sexual misconduct to individuals is high and can include, but is not limited to, physical injury or illness, depression, feelings of helplessness, headaches, substance abuse, anxiety, sleep disturbances, and disordered eating. The cost of sexual harassment and sexual misconduct to the University can include, but is not limited to, decreased productivity, absenteeism, increased demand for services needed to address issues raised for the targets of harassing behavior, and eroded trust in the institution. Sexual harassment and sexual misconduct may also result in a decrease in morale, reduce participation in life-enriching student activities, and lower student success. Sexual harassment and sexual misconduct interfere with an employee's ability to perform their job duties and a student's ability to fully participate in the educational process.

All members of the Utica University community have a responsibility to cooperate in creating a climate where sexual harassment and sexual misconduct do not occur. In addition to ensuring legal compliance, this policy is designed to prepare members of the University community for that responsibility by creating an awareness of behavior that is considered to be sexual harassment or sexual misconduct, as well as fostering an understanding of the procedures Utica University will use to address such behavior in a way that protects reporting parties, witnesses, and responding parties.

Academic Freedom

Utica University is an academic institution at which academic freedom is necessary and valued. The University will not construe this policy to prevent or penalize a statement, opinion, theory, or idea offered within the bounds of legitimate, relevant, and responsible teaching, learning, working, or discussion.

ROLES AND RESPONSIBILITIES

There are a number of individuals who have key roles and responsibilities throughout the reporting, investigatory and adjudication processes. These individuals are required to be free from conflicts of interest or bias for, or against, reporting parties and responding parties.

Title IX Coordinator

Utica University's Title IX Coordinator is responsible for receiving reports of sex discrimination, including sexual harassment and sexual misconduct. Reports to the Title IX Coordinator may be made at any time (including non-business hours) in person, by telephone, by e-mail, or by regular mail. The Title IX Coordinator and Deputy Title IX Coordinator typically work M-F, 8am-5pm, and will directly respond to reports during that time. For emergency assistance after hours or on weekends, please utilize campus safety by calling (315) 792-3046 or Local Police by calling 911. Digital reports can be submitted at any time via the reporting form, which can be found here. If a report is determined to meet the definition of a potential violation of this policy, the

Title IX Coordinator will be responsible for overseeing the investigatory process and for providing all required disclosures and notifications to the reporting and responding parties. The Title IX Coordinator will also communicate any supportive measures to reporting and responding parties. All of this will be done in a prompt and fair manner.

The Title IX Coordinator works with others at Utica University to make sure policies and procedures are updated and communicated as needed.

Utica University's Title IX Coordinator is:
Kyle Wilson
Title IX Coordinator
Phone Number: 315-792-3063
Email address: klwilson@utica.edu
Office Location: 119 Addison Miller White Hall (Utica University Main Campus – 1600 Burrstone Road, Utica, NY 13502)

Utica University also has a Deputy Title IX Coordinator who can coordinate investigations in the absence of the Title IX Coordinator, or who is available to coordinate cases that involve employees. The Deputy Title IX Coordinator is:

Kristin St. Hilaire, Director of Athletics and Physical Education

Phone Number: 315-792-3051

Email Address: kmsthila@utica.edu
Office Location: Clark Athletic Center (Utica University Main Campus – 1600 Burrstone Road, Utica, NY 13502)

Title IX Investigators

Title IX investigators are Utica University employees who are trained to conduct fair and comprehensive investigations into complaints of sexual harassment and sexual misconduct. These individuals receive training specific to conducting impartial investigations with fairness to both parties and are also trained in trauma informed practices. Title IX investigators are assigned to investigate reports made to the Title IX Coordinator. They gather as much evidence as possible and prepare a report of that evidence to the Title IX Coordinator, who then provides it to the decision-maker (see below).

Decision-Maker

The decision-maker is a Utica University employee who is responsible for reading investigatory reports provided by the Title IX Coordinator, convening a live hearing when necessary, managing the live hearing process, and determining whether the responding party is responsible for

alleged violations and, if applicable, appropriate sanctions, based on all of the information provided. Decision-makers receive specific training to prepare them for this responsibility.

For cases involving students, the decision-maker is the Director of Student Conduct and Community Standards, or another party designated by the University (such as another trained member of the Enrollment and the Student Experience team). For cases involving employees, the decision-maker is a staff member in the Office of Human Resources.

Advisor

The reporting party and responding party have the opportunity to select someone to be with them throughout the investigatory and hearing processes. This individual, called the "advisor of choice" or "advisor", may or may not be an attorney. In cases where a student does not have access to an advisor, the University will provide an advisor of the University's choice. The advisor will be copied on correspondence that is presented throughout the investigatory process. The advisor will also have the ability to cross-examine the other party and any witnesses during live hearings, as long as the cross-examination questions are determined to be relevant by the decisionmaker and otherwise comply with the requirements of this policy as described below. The advisor will be copied on communications related to determination of the hearing process, and any associated disciplinary action.

Responsible Administrators

Responsible administrators are officials at Utica University with the authority to institute corrective measures on the University's behalf. This includes:

- Certain officers of the University (Provost and Senior Vice President for Academic Affairs, as an example)
- Title IX Coordinator
- Deputy Title IX Coordinator
- Vice President of Enrollment and the Student Experience
- Student Living personnel
- Campus Safety personnel

When a report of sexual harassment or sexual misconduct is made to a responsible administrator, the University's responsibility to respond to the report is triggered.

Appeals Board

After a determination is made, or if a complaint or specific allegations in a complaint is/are dismissed as described below, the reporting party and responding party both have the right to appeal the outcome and associated disciplinary decision (or the dismissal). The appeals board of Utica University is comprised of three individuals who are trained in this responsibility, who will hear appeals and determine whether or not the matter needs to be reviewed as a result of one or more of the following: (1) there is a procedural irregularity that affected the determination or

dismissal; (2) there is newly discovered information that could affect the determination or dismissal; (3) Title IX personnel had a conflict of interest, or bias against reporting parties/complainants or respondents generally or the reporting party or responding party in the case, that affected the determination or dismissal; or (4) a sanction is inconsistent with the severity of the violation or otherwise inappropriate. The appeals board will issue their decision on the appeal in writing to both the reporting and responding party within three business days after making their decision.

RESOURCES

Confidential Resources

All members of the Utica University community have a number of resources available to discuss sexual harassment or sexual misconduct concerns or questions. Individuals who have experienced sexual harassment or sexual misconduct are encouraged to seek support for their physical and emotional needs.

A student seeking confidential emotional or medical care may contact the following:

1. **Utica University Health & Wellness Center**
   Medical & Counseling Services
   Student Wellness Center, Room 204 Strebel Student Center
   (315) 792-3094
   HWC@utica.edu

   BetterMynd Virtual Counseling
   Register/Login: **http://bettermynd.com** (use Utica email address)

   -Free virtual counseling with licensed mental health providers
   -Flexible appointment times, including evenings and weekends
   -A diverse network of therapists so students can find a provider who best fills their needs
   -24/7 emotional support through BetterMynd's Support Line, 844-287-6963

2. **Bethany VanBenschoten***
   Program Manager, Institute for the Study of Integrative Healthcare/Campus Victims Advocate

   Deperno 204

   (315) 792-5294

bavanben@utica.edu

3. **YWCA Mohawk Valley 24-hour Hotline - Sexual Assault, Domestic Violence, Stalking***
   Oneida County: Call or Text (315) 797-7740

   Herkimer County: Call or Text (315) 866-4120

   Chat with an Advocate: www.YWCAMV.org/chat

   **Note – these confidential sources are responsible for reporting non-identifiable statistics as required by the Clery Act*

The health and counseling services noted above are available to Utica University students free of charge.

An employee seeking confidential emotional support may contact the University's employee assistance program:

1-800-EAP-CALL (1-800-327-2255)

www.breehealth.com

Company ID: 9000 (Needed only to create an account on website)

These resources afford students and employees the opportunity to discuss a concern or situation and the available options. These resources also offer the opportunity to gain information about the University's formal complaint procedures under this policy. Reports made to these resources will **not** be reported to other University officials in any personally identifiable manner (reports made to some of these individuals may result in a report to University officials that an incident occurred, but will not result in the reporting of any personally identifiable information), and, as a result, any individual making a report solely to such confidential resources should not expect action to be taken by the University against any alleged perpetrator. Similarly, if a victim discloses actions constituting a violation of this policy through public awareness events, such as "Take Back the Night" or other event or forum, Utica University is not obligated to begin an investigation. Utica University may, however, use the information to inform the need for additional education and prevention efforts.

Confidential reports of any form of sexual misconduct can also be made to off-campus resources, including:

4. **YWCA Mohawk Valley 24-hour Hotline - Sexual Assault, Domestic Violence, Stalking***
   Oneida County: Call or Text (315) 797-7740
   Herkimer County: Call or Text (315) 866-4120

Chat with an Advocate: www.YWCAMV.org/chat
**Note – this confidential source is responsible for reporting non-identifiable statistics as required by the Clery Act*

5. **Suicide/Crisis Services**
   24 Hour Hotline: Call 988 or Text HOME to 741741
   Veterans Crisis Line: Call 988, Option 1 or Text 838255
   Trevor Project (LGBTQ Resource): Call (866) 488-7386 or Text START to 678678
   https://oneidacountyny.gov/departments/mental-health/crisis-services/

6. **NYS Office of Victim Services**
   Toll free Number: 1-800-247-8035
   https://ovs.ny.gov/

7. **National Domestic Violence Hotline**
   24-hour Hotline: 1-800-799-7233
   Text START to 88788
   Chat: https://www.thehotline.org/

8. **RAINN Hotline (National Sexual Assault Hotline)**
   24-hour Hotline: 1-800-656-4673
   Text HOPE to 66743
   Chat: https://rainn.org/help-and-healing/hotline/
   https://rainn.org/

9. Crisis Services for Students, Faculty, Staff, and Contract Staff at Latham, NY site:
   Equinox Inc.
   102 Hackett Blvd.
   Albany, NY 12209
   24-hour Hotline: (518) 432-7865
   Phone: (518) 434-6135
   https://www.equinoxinc.org/

10. Crisis Services for Students, Faculty, Staff, and Contract Staff at St. Petersburg, FL site:
    Suncoast Center, Inc.

    PO Box 10970

    St. Petersburg, FL 33733

    Phone (appointments): (727) 388-1220

    24-hour Hotline: (727) 530-7273
    https://www.suncoastcenter.org/

In addition to the resources listed above, Utica University shares a Memorandum of Understanding (MOU) with Mohawk Valley Health System, located in Utica, NY. This MOU ensures that any member of the University community who is a victim of sexual assault will have access to a sexual assault examination by a sexual assault nurse examiner or through a physician referral to a sexual assault nurse examiner.

When an individual shares information with a confidential resource (on or off campus) as a confidential communication in the course of a protected relationship, the confidential resource cannot disclose the information (including information about whether an individual has received services) to any third party without the individual's written permission or unless permitted or required consistent with ethical or legal obligations. Accordingly, a report to a confidential resource is not a report to the University and will not result in an investigation or disciplinary action.

Non-Confidential Resources: Responsible Administrators

Any person having a complaint of sexual harassment or sexual misconduct is encouraged to make a report to any one of the following non-confidential resources, who are considered "Responsible Administrators" for purposes of this policy:

1. **Title IX Coordinator**
   Kyle Wilson, Title IX Coordinator, (315) 792-3063, klwilson@utica.edu

2. **Deputy Title IX Coordinator**
   Kristin St. Hilaire, Director of Athletics and Physical Education, (315) 792-3051, kmsthila@utica.edu

3. **Director of Victim Advocacy & Violence Prevention Initiatives**
   Alicia Reed, (315) 792-3094, acreed@utica.edu

4. **Director of Campus Safety**
   Jay LaFayette, (315) 792-3046, jjlafaye@utica.edu

5. **Vice President for Enrollment Management and Student Experience**
   Jennifer Adams, 201A Deperno Hall, jradams1@utica.edu

Faculty, staff, students and contracted staff in Utica University's ABSN programs, or any other programs that exist in other physical Utica University locations, may also make a report to the site's assigned Success Coach. Success Coaches are also non-confidential resources who have

been trained to alert a responsible administrator in order to assist others in reporting an incident.

Emergency access to the Title IX Coordinator is made available through contact with the Office of Campus Safety.

These individuals have been trained to receive and respond to allegations of violations of this policy. Complaints can be made to any of the Responsible Administrators by those who have been the victim of a violation of this policy or by a third party on a victim's behalf. While all employees are strongly encouraged to report incidents of sexual harassment or sexual misconduct, and certain other employees may be required to report them, if a complaint is made to anyone other than the Responsible Administrators, the reporting party risks the possibility that it will not come to the attention of the proper University officials and may, therefore, not be acted upon. For this purpose, faculty and staff members are not Responsible Administrators unless they are named specifically, and one should not assume that information brought to the attention of a faculty or staff member not considered to be a Responsible Administrator will be reported to the University. On the other hand, unless a report is made to a confidential resource, one cannot be assured of confidentiality.

Non-Confidential External Resources: Law Enforcement

All persons covered by this policy have the right to involve state and/or local law enforcement in matters of sexual harassment or sexual misconduct. Following is contact information for those resources:

1. **New York State Campus Sexual Assault Victim's Unit NYSCSAVU)**
   New York State Police
   1-844-845-7269

2. **Utica Police Department (local police**)
   413 Oriskany Street West
   Utica, New York 13502
   Phone: (315) 735-3301
   https://www.cityofutica.com/departments/police-department/index

3. **New Hartford Police Department (local police)**
   8635 Clinton St.
   New Hartford, NY 13413
   Phone: (315) 724-7111
   https://www.townofnewhartfordny.gov/police-department

4. For Students, Faculty, Staff, and Contract Staff at Latham, NY site:
   Colonie Town Police Department
   312 Wolf Road
   Latham, NY 12110

   Phone: (518) 783-2744
   https://www.colonie.org/departments/police/

5. For Students, Faculty, Staff, and Contract Staff at St. Petersburg, FL site:
   St. Petersburg Police
   1301 First Avenue North
   St. Petersburg, FL 33705
   Phone: (727) 893-7521
   https://police.stpete.org/#gsc.tab=0

   Pinellas County Sheriff's Office
   Phone: (727) 582-6200
   https://www.pinellassheriff.gov/

A reporting party who is not satisfied with the attempts to resolve the sexual harassment or sexual misconduct may seek resolution through other sources, such as the New York State Division of Human Rights, the Equal Employment Opportunity Commission, the Office for Civil Rights, or the U.S. Department of Education.

Third Party Reports

In cases where the sexual harassment or sexual misconduct is reported by a third party (e.g. a faculty member, Residence Life staff member, student organization advisor, etc.), the person identified as the target of the behavior will be notified by the Title IX Coordinator or, if appropriate, by the Deputy Title IX Coordinator, that a report has been received. Every effort will be made to meet with the individual to discuss their options and resources at the University and in the community.

DEFINITIONS OF SPECIFIC VIOLATIONS

This policy applies to alleged conduct in violation of Title IX of the Education Amendments of 1972 ("Title IX Violations"), and also applies to a broader range of contexts and behaviors inconsistent with the University's commitment to equal opportunity and, in some cases, the University's

obligations under other applicable laws such as New York Education Law Article 129-B (i.e., "Community Standards Violations").

The designation of conduct or allegations as either "Title IX Violations" or "Community Standards Violations" is not a function of the seriousness of the alleged conduct but rather a function of the scope and coverage of Title IX versus the University's broader obligations under New York Education Law Article 129-B and its discretion to prohibit and discipline a larger scope of inappropriate behavior.

Title IX Violations

Title IX of the Education Amendments of 1972 provides: "No person in the United States shall, on the basis of sex, be excluded from participation, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

In accordance with Title IX as interpreted by the United States Department of Education, the University recognizes the following as conduct violations within the meaning of Title IX, provided that the context and circumstances of the conduct fall within the scope of Title IX, including but not limited to that the reporting party/complainant was in the United States at the time of the alleged conduct, that the reporting party/complainant is participating in or seeking to participate in the University's education program or activity at the time of the complaint, and that the conduct is alleged to have occurred in the context of the University's education program or activity:

A. Sexual harassment. "Sexual harassment", as a Title IX Violation, means conduct on the basis of sex, including gender, sexual orientation, or gender identity or expression, that satisfies one or more of the following:

- An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct (commonly referred to as a "quid pro quo"); or

- 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 University's education program or activity (commonly referred to as a sexually or gender-based "hostile environment").

B. Sexual Assault. Consistent with federal law, the University defines sexual assault as including:

- Non-Consensual Sexual Intercourse. Sexual assault of this type includes 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 other person.

- Non-Consensual Sexual Contact. This form of sexual assault includes the intentional touching of another person's clothed or unclothed body parts without consent, or the forced touching by another person of the actor's clothed or unclothed

body parts without consent, for the purpose of sexual degradation, sexual gratification, or sexual humiliation. This definition includes, without limitation, instances when the victim is incapable of giving consent due to age or incapacity due to mental or physical impairment (temporary or permanent).

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

- Statutory Rape. Non-forcible sexual intercourse with a person who is under the statutory age of consent. The statutory age of consent in New York is 17.

C. Dating Violence. Dating violence refers to violence (including but not limited to sexual or physical abuse or the threat of such abuse) committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, where the existence of such a relationship shall be determined based on the statement of the reporting party with consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship. Dating violence can include behavior such as coercion, isolation or other forms of emotional, verbal or economic abuse if it reflects a threat of sexual or physical abuse as described above. Dating violence does not include acts covered under the definition of domestic violence.

D. Domestic Violence. Domestic violence refers to violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction where the University is located, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. To categorize an incident as Domestic Violence, the relationship between the responding party and the reporting party/complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship as described above.

E. Stalking. Stalking is engaging in a course of conduct directed at a specific person on the basis of sex that would cause a reasonable person to fear for their safety or the safety of others; or suffer substantial emotional distress. For the purposes of this definition, (i) a "course of conduct" means two or more acts, including, but not limited to, acts in which the individual directly, indirectly, or through third 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; (ii) "reasonable person" means a reasonable person under similar circumstances and with similar identities to the reporting party/complainant; and (iii) "substantial emotional distress" means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling. Examples of behavior that may constitute stalking include repeated, intentional following, observing or lying in wait for another; using "spyware" or other electronic means to gain impermissible access to a person's private information;

repeated, unwanted, intrusive, and frightening communications by phone, mail, email, text, etc.; making direct or indirect threats to harm an individual or the individual's relatives, friends, or pets; or damaging or threatening to damage the property of the targeted individual. Stalking that does not occur on the basis of sex may be addressed as a Community Standards Violation as described below.

Community Standards Violations

The University prohibits the following behavior under circumstances in which a University interest is implicated (such as an impact on individuals as members of the University community). For the purpose of Community Standards Violations, the below conduct is prohibited even if the conduct occurs off-campus, outside the United States, if the reporting party/complainant is not participating or seeking to participate in the University's education program or activity, or otherwise in circumstances over which the University does not have influence or control, including but not limited to during University academic breaks.

1. Sexual harassment. "Sexual harassment" means unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex or gender, sexual orientation, or gender identity or expression, when such conduct has the purpose or effect of unreasonably interfering with an individual's work, academic, or extracurricular performance, or creating an intimidating, hostile, or offensive work or learning environment, even if the reporting individual is not the intended target of the sexual harassment.

   Harassing conduct can occur in various forms, including:

   - Verbal – Conduct such as unwelcome sexually suggestive, demeaning, or graphic comments; unwelcome verbal sexual advances; using slurs to refer to a person; bullying, yelling or name-calling; refusing to use a person's preferred pronouns or name; or jokes or comments that demean a person on the basis of gender, sexual orientation, gender identity or gender expression.

   - Physical – Conduct such as unwanted sexual contact or physical sexual advances (e.g., unwanted touching, pinching, patting, kissing, hugging, grabbing, brushing against another person's body or poking another person's body); sexual intimidation through physical threats; or physical threats toward or intimidation of another on the basis of gender, sexual orientation, gender identity or gender expression.

   - Visual – Conduct such as exposing another person to unwanted pornographic images; creating or displaying pictures, symbols, flags, cartoons, or graffiti that is/are sexually offensive or disparage(s) another person or group based on gender, sexual orientation, gender identity or gender expression.

   - Communication-based – Conduct such as phone calls, e-mails, text messages, chats, blogs or online communications that offend, demean, or intimidate another on the basis of gender, sexual orientation, gender identity or gender expression. Members

of the community are expected to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via social media, unwelcome sexual or sex-based messaging, distributing or threatening to distribute revenge pornography, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of, or group within, the University community.

- Sex stereotyping – Conduct in which another person's or group's conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.

A determination as to whether sexual harassment occurred depends on the totality of the circumstances, including the context of a communication or incident, the relationship of the individuals involved in the communication or incident, whether an incident was an isolated incident or part of a broader pattern or course of offensive conduct, the seriousness or severity of the incident, the intent of the individual who engaged in the allegedly offensive conduct, and its effect or impact on the individual or group and the learning community.

A "hostile environment" is created when the offensive behavior interferes with an individual's ability to participate in the University's programs (i.e., to work and to learn) when judged against a reasonable person standard. However, the University encourages individuals experiencing or witnessing offensive behavior to make a report as early as possible so as to have the situation corrected before it reaches the level of a hostile environment. Individuals with a concern need not worry about whether the behavior is sufficiently serious to constitute a hostile environment. The University reserves the right to remedy sexual harassment pursuant to this policy even if the behavior in question does not rise to the level of legally recognized or actionable harassment.

The fact that a person was personally offended by a statement or incident does not alone constitute a violation of this policy. The determination as to whether this policy has been violated takes into account the totality of the circumstances as described above. In all instances, a key factor is whether the complained-of behavior occurred because based on gender, sexual orientation, gender identity or gender expression or was sexual in nature. If it did not or was not, the behavior is not regulated by this policy. However, even if the conduct is not sexual in nature or based upon on gender, sexual orientation, gender identity or gender expression and/or does not otherwise constitute prohibited conduct under this policy, the University may respond by providing individual and community support and resources to those who have been impacted.

The University also prohibits "quid pro quo" sexual harassment, which means "this for that" harassment. It is a violation of this policy for any person to condition any benefit on submission to sexual activity. No person should believe that any other person -- no matter their position of authority -- has a right to require sexual activity in exchange for any benefit or advantage; they do not.

2. Sexual Assault. "Sexual assault" includes any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will, without affirmative consent, or where the victim is incapable of giving affirmative consent, but that does not constitute sexual assault as a Title IX Violation as defined above because of the nature of the behavior or the context in which it occurs (for example because the reporting party/complainant was not in the United States at the time of the alleged conduct, because the reporting party/complainant was not participating in or seeking to participate in the University's education program or activity at the time of the complaint, or because the conduct did not occur in the context of the University's education program or activity). Sexual assault consists of the following specific acts:

    - Non-Consensual Sexual Intercourse. Sexual assault of this type includes 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, forcibly or without affirmative consent or where the victim is incapable of affirmative consent due to mental or physical incapacity. This type of sexual assault also includes non-forcible sexual intercourse with a person who is under the statutory age of consent. In New York, the statutory age of consent is 17 years old.

    - Non-Consensual Sexual Contact. This form of sexual assault includes the intentional touching of another person's clothed or unclothed body parts without consent, or the forced touching by another person of the actor's clothed or unclothed body parts without consent, for the purpose of sexual degradation, sexual gratification, or sexual humiliation. This definition includes, without limitation, instances when the victim is incapable of giving consent due to age or incapacity due to mental or physical impairment (temporary or permanent).

3. Sexual Exploitation. Taking nonconsensual or abusive sexual advantage of another for one's own benefit or for the benefit of anyone other than the person being exploited, if the conduct does not otherwise constitute another offense under this policy. Examples of sexual exploitation include (a) sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed); (b) taking pictures, video, or audio recording of another in a sexual act, or in any other sexually-related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent or beyond the parameters of consent), including the making or posting of revenge pornography; (c) exposing one's genitals in non-consensual circumstances or nonconsensual disrobing of another person so as to expose the other person's private body parts; (d) prostituting another person; (e) engaging in sexual activity with another person while knowingly infected with a sexually-transmitted disease (STD) or infection (STI), without informing the other person of the STD or STI; (f) causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity; (g)

misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections; (h) forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity; or (i) knowingly soliciting a minor for sexual activity.

4. Dating Violence. Dating violence refers to violence (including but not limited to sexual or physical abuse or the threat of such abuse) committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, but that does not constitute dating violence as a Title IX Violation as defined above. This type of behavior would not be identified as a Title IX violation if the nature of the behavior or the context in which it occurs does not fall under Title IX regulations. Examples would be if the reporting party/complainant was not in the United States at the time of the alleged conduct, if the reporting party/complainant was not participating in or seeking to participate in the University's education program or activity at the time of the complaint, or if the conduct did not occur in the context of the University's education program or activity. The existence of such a relationship shall be determined based on the statement or the reporting party with consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship. Dating violence can include behavior such as coercion, isolation or other forms of emotional, verbal or economic abuse if it reflects a threat of sexual or physical abuse as described above. Dating violence does not include acts covered under the definition of domestic violence.

5. Domestic Violence. Domestic violence refers to violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction where the University is located, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the act of violence occurs, that does not constitute domestic violence as a Title IX Violation as defined above because of the nature of the behavior or the context in which it occurs (for example because the reporting party/complainant was not in the United States at the time of the alleged conduct, because the reporting party/complainant was not participating in or seeking to participate in the University's education program or activity at the time of the complaint, or because the conduct did not occur in the context of the University's education program or activity). To categorize an incident as Domestic Violence, the relationship between the responding party and the reporting party/complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship as described above.

6. Stalking. Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or to suffer substantial emotional distress, but that does not constitute stalking as a Title IX Violation as defined above because of the nature of the behavior, the basis on which it occurs, or the context in which it occurs (for example because the reporting party/complainant was not in

the United States at the time of the alleged conduct, because the reporting party/complainant was not participating in or seeking to participate in the University's education program or activity at the time of the complaint, or because the conduct did not occur in the context of the University's education program or activity). For the purposes of this definition, (i) a "course of conduct" means two or more acts, including, but not limited to, acts in which the individual directly, indirectly, or through third 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; (ii) "reasonable person" means a reasonable person under similar circumstances and with similar identities to the reporting party/complainant; and (iii) "substantial emotional distress" means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling. Stalking behavior may include but is not limited to repeated, intentional following, observing or lying in wait for another; using "spyware" or other electronic means to gain impermissible access to a person's private information; repeated, unwanted, intrusive, and frightening communications by phone, mail, email, text, etc.; making direct or indirect threats to harm an individual or the individual's relatives, friends, or pets; or damaging or threatening to damage the property of the targeted individual.

RELATED DEFINITIONS

a. **Affirmative Consent** - In order for individuals to engage in sexual activity of any type with each other, there must be clear affirmative consent. Whenever the term consent is used in this policy, it should be understood to mean affirmative consent as defined here. Affirmative consent is a knowing, voluntary and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of affirmative consent does not vary based on a participant's sex, sexual orientation, gender identity, or gender expression. Under this policy, "No" always means "No." At the same time, silence, or the absence of an explicit "no", cannot be assumed to indicate consent.

- Consent to some form of sexual activity between or with any party cannot be automatically taken as consent to any other sexual activity.
- Past consent to sexual activity cannot be presumed to be consent to engage in the same sexual activity in the future.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- Consent can be withdrawn at any time by expressing in words or actions that the individual no longer wants the sexual activity to continue and, if that happens, the other person must stop immediately.
- Affirmative consent cannot be obtained by use of force, compelling threats, intimidating behavior, or coercion. Consent cannot be given when a person is

incapacitated, as defined below. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.

b. **Incapacitation**- This occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness, mental disability, being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. In order to give affirmative consent, one must be of legal age, which is 17 in the state of New York. Use of alcohol or other drugs does not, in and of itself, negate a person's ability to give affirmative consent. However, depending on the degree of intoxication, someone who is under the influence of alcohol or drugs or other intoxicants may be incapacitated and therefore unable to consent. A person who has been drinking or using drugs is still responsible for ensuring that the other person provides affirmative consent to engage in sexual activity. An individual's incapacity may also be caused by consuming "date rape" drugs. Possession, use, and/or distribution of any of these substances (including Rohypnol, Ketamine, GHB, Burundanga, and others) is prohibited, and administering any of these drugs to another person for the purpose of inducing one to consent to sexual activity is a violation of this policy.

c. **Coercion** - Coercion is a threat, undue pressure, or intimidation to engage in sexual activity. Coercion is more than an effort to persuade, seduce, entice, or attract another person to engage in sexual activity. A person's words or conduct are sufficient to constitute coercion if they deprive another individual of the ability to freely choose whether or not to engage in sexual activity.

d. **Force -** Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that overcome resistance or produce consent.

e. **Reporting Party or Complainant -** The reporting party or complainant is the person who is alleged to be the victim of conduct that could constitute sexual harassment or sexual misconduct. A person who files a report on behalf of another person is referred to more specifically as a third-party reporter. The person who is directly affected by the reported behavior, whether reported by them or a third party, will be referred to as the reporting party or complainant.

f. **Responding Party or Respondent -** The responding party is the person who is alleged to have engaged in behavior that violates this policy and, if a process is commenced, is responding to the allegations. The responding party may also be referred to as the respondent.

g. **Supportive Measures -** Supportive measures are designed to restore or preserve equal access and ensure the safety of all involved parties. They are non-disciplinary, non-punitive individualized services offered, as appropriate and as available, and without fee or charge to the reporting party or responding party, before or after the filing of a formal

complaint or where no formal complaint has been filed. Supportive measures can be offered for any reason within the Title IX process, and a formal complaint is not required for supportive measures to be offered. Examples of supportive measures include, but are not limited to:

- counseling services;
- extensions of deadlines or other course-related adjustments;
- modification of work or class schedules;
- safety escorts;
- mutual no-contact restrictions and, in certain cases, one-way no contact orders,
- changes in work or housing locations;
- leaves of absence;
- increased security and monitoring of certain areas of the campus; and other similar measures.

h. **Preponderance of Evidence Standard -** This is the standard of evidence that is used to determine whether or not a violation of this Utica University policy has occurred. This standard states that based on the collected evidence, it is "more likely than not" that a violation occurred. The burden of proof lies with the institution, and it applies to students, faculty and staff.

i. **Inculpatory Evidence -** This is evidence that tends to reflect a responding party's responsibility for an alleged violation.

j. **Exculpatory Evidence -** This is evidence that tends to reflect that a responding party is not responsible for an alleged violation.

INFORMAL RESOLUTION

Informal resolutions may occur in the place of a formal grievance process only with voluntary, informed and written consent by both parties. Examples of informal resolution include mediation or restorative justice.

In cases where a formal complaint has been filed, but where the Title IX Coordinator determines that informal resolution may be appropriate, the Title IX Coordinator will first consult with the reporting party/complainant about the option to pursue informal resolution. If the reporting party/complainant is agreeable, then the Title IX Coordinator will consult with the responding party to discuss the process. If both parties are agreeable, the informal resolution process will be coordinated by the Title IX Coordinator. Informal resolutions should only be handled by an individual who is trained in facilitation. Either party who enters into an informal resolution process may decide to withdraw from the process prior to agreeing to a resolution. Informal resolution cannot be used in cases where a student alleges

sexual harassment by an employee of Utica University.

There may be instances when, for the safety of others who may be affected by the alleged action, an investigation may need to be conducted despite the willingness of the parties to engage in an informal resolution process. Should this type of situation arise, the investigators will communicate the need to transition to a formal resolution process to the reporting party and responding party.

In implementing an informal resolution process, the University will:

- Provide to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the formal resolution process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared; and

- Obtain the parties' voluntary, written consent to the informal resolution process.

More information regarding our Informal Resolution process can be found here.

FORMAL GRIEVANCE PROCESS

Any Utica University community member who has been the victim of sexual harassment or sexual misconduct has the right to make a report to the University, local law enforcement, and/or the state police, or choose not to report. If reported to the University under this policy, a reporting individual will be protected from retaliation and will receive appropriate assistance and resources from Utica University. Please see the Students' Bill of Rights (https://www.utica.edu/hr/titleiv/Student_Bill_Of_Rights-2016_R2%20(1).pdf) for cases involving sexual assault, domestic violence, dating violence, or stalking.

The grievance process treats all reporting parties and responding parties equitably and is designed to preserve or restore equal access to all of the University's programs and activities (including the workplace/work environment).

Making a report

Those who wish to file a report of sexual harassment or sexual misconduct may do so by submitting a written, signed complaint to the Title IX Coordinator.

Kyle Wilson
Title IX Coordinator
Phone Number: 315-792-3063
Email address: klwilson@utica.edu
Office Location: 119 Addison Miller White Hall (Utica University Main Campus – 1600 Burrstone Road, Utica, NY 13502)

The person making the report, or the reporting party, may also make a report verbally to the Title IX Coordinator. A reporting party may also make a report to a person identified as a "responsible administrator" (see definitions), who will then direct the reporting party to the Title IX Coordinator.

Reporting Party Request for Confidentiality:

Reporting parties may make a request that the University maintain the report as confidential. This type of request may be made if reporting parties do not want their identity known to the responding party and witnesses or wish that the University not conduct an investigation or that action not be taken against an alleged perpetrator.

In situations where a reporting party makes such a request, the University's ability to investigate and respond to the allegations may be limited. If at any point the reporting party requests confidentiality, the University will make all reasonable attempts to comply with this request, but it is not required to honor these requests. The University may, in appropriate circumstances, decide it must move forward with an investigation and/or disciplinary process.

The University is required by Title IX and New York State law to weigh the reporting party's request for confidentiality with the University's commitment to provide a reasonably safe and non-discriminatory environment. In evaluating a request for confidentiality, the Title IX Coordinator will consider a range of factors, including, but not limited to:

- Whether the reporting party wants to participate in a formal investigation process;
- The severity and impact of the alleged sexual harassment or sexual misconduct;
- The respective ages of the parties;
- Whether the reporting party is a minor under the age of 18;
- Whether the responding party has admitted to the sexual harassment or sexual misconduct;

- Whether there have been other sexual harassment or sexual misconduct complaints about the responding party;
- Whether the reported incident represents escalation in unlawful conduct on behalf of the responding party from previously noted behavior;
- Whether the responding party has a history of arrests or records from a prior school indicating a history of violence;
- Whether the responding party threatened further sexual violence against the victim or others;
- Whether the sexual harassment or sexual misconduct was committed by multiple responding

parties;

- Whether the sexual harassment or sexual misconduct was perpetrated with a weapon or force;
- Whether the sexual harassment or sexual misconduct was committed by multiple perpetrators;
- Whether the information provided suggests that the act is part of a larger pattern at a specific location or by a particular group;
- Whether information can be obtained by means other than from the impacted individual (e.g., by personnel or security cameras, witnesses, or through physical evidence); and/or
- The overall safety of the campus community (including the reporting party).

The Title IX Coordinator will notify the reporting party if the University cannot honor the reporting party's request for confidentiality. Even Utica University officials who cannot guarantee confidentiality will maintain privacy to the greatest extent possible. Information reported to a nonconfidential resource will be relayed only as necessary for the Title IX Coordinator, and those acting under this policy, to investigate and/or seek a resolution. The reporting party's identity will only be revealed to those individuals who need to know the name of the reporting party in order for an investigation and/or resolution to occur. In fact, the University will make all reasonable efforts to maintain the privacy of all parties involved in investigations under this policy and to restrict information to those with a legitimate need to know. Individuals participating in an investigation, proceeding, or hearing will be encouraged to maintain the privacy of the process in order to assist the University in conducting a thorough, fair, and accurate investigation; provided that this will not restrict a reporting party/complainant or responding party from discussing the allegations under investigation or gathering and presenting relevant evidence.

Notifications to Reporting Party and Formal Complaint Process

Once a report is received, the Title IX Coordinator will promptly contact the reporting party confidentially to discuss any available supportive measures. If a formal complaint has not yet been received, the Title IX Coordinator will contact the potential reporting party, inform them of the process for filing a formal complaint, and engage in a discussion about supportive measures (with or without a formal complaint). The reporting party will be

informed that although emergency removal may be an option (only if a threat of immediate safety is present), no disciplinary sanctions against the responding party will occur until the grievance process is completed and a determination is reached. The reporting party will also be informed that while the University will make every effort to honor their wishes with regard to whether or not an investigation takes place, if the Title IX Coordinator decides to sign the complaint because of known circumstances, an investigation may still occur.

A formal complaint is necessary to initiate a disciplinary resolution or informal resolution under this policy. A formal complaint must be in written form and must be signed by the reporting party/complainant or (as provided in this policy) the Title IX Coordinator. A third party or anyone other than the victim of the misconduct may report an incident as described above but may not file a formal complaint. However, a formal complaint may be filed by a parent or guardian on behalf of a minor person.

A formal complaint is a document filed by a reporting party/complainant or signed by the Title IX Coordinator alleging one or more violations committed by a responding party and requesting that the University investigate the allegation. A formal complaint may be filed with the Title IX Coordinator in person, by telephone, by mail, or by electronic mail to:

Kyle Wilson
Title IX Coordinator
1600 Burrstone Rd.
Utica, NY 13502
klwilson@utica.edu

In order to qualify as a formal complaint, the document must contain the reporting party/complainant's physical or electronic signature or otherwise indicate that the reporting party/complainant is the person filing the formal complaint.

If a reporting party/complainant declines to sign a formal complaint or does not wish to participate in the complaint and adjudication process, or the reporting party/complainant's identity is unknown, and the Title IX Coordinator determines there is sufficient cause to file a formal complaint, the Title IX Coordinator may file a formal complaint. In such cases, the Title IX Coordinator is not considered to be a reporting party/complainant or other party under this policy.

In order to comply with Title IX regulations, the Title IX Coordinator must "dismiss" allegations of Title IX Violation(s) alleged in a complaint if, at any time following receipt of the complaint, it is apparent that the allegations are not within the scope of Title IX, including that the conduct alleged (1) would not constitute sexual harassment, sexual assault, dating violence, domestic violence or stalking as defined as Title IX Violations, even if proved, (2) did not occur in the University's education program or activity, or (3) did not

occur against a person in the United States. Even if allegations of Title IX Violations are subject to dismissal, the University may continue to process the allegations as Community Standards Violations if the allegations, if true, would constitute Community Standards Violations.

In addition, the Title IX Coordinator may dismiss a complaint if the reporting party/complainant informs the Title IX Coordinator in writing that they would like to withdraw the report, if the responding party is no longer enrolled or employed by the University, or if specific circumstances prevent the University from gathering sufficient evidence to reach a determination.

Any decision to dismiss a complaint or allegation pursuant to this section is immediately appealable pursuant to the appeal procedures set forth in this policy.

Supportive Measures

Once a report is made under this policy, the reporting party will be contacted by the Title IX Coordinator and offered supportive measures, as defined above in Section VII.g. A report that triggers supportive measures need not be a formal complaint, and it may be made by a third party (i.e., someone other than the person allegedly subjected to misconduct). Once the responding party is informed of a report or a formal complaint, the responding party will be contacted by the Title IX Coordinator and offered supportive measures. Supportive measures are intended to restore or preserve, to the extent practicable, equal access to the University's educational programs and activities and protect the safety of all parties without unreasonably burdening any other party or parties. As required by federal regulation, these supportive measures must be non-disciplinary and non-punitive to the parties. The Title IX Coordinator is responsible for coordinating the implementation of supportive measures, including coordinating with the various University departments and offices that may be involved. Supportive measures will be offered free of charge.

If a party's request for a supportive measure is denied, the party will be afforded an opportunity to have the denial promptly reviewed to assess whether the supportive measure is reasonable under the circumstances. In addition, each party will, upon request, be afforded the opportunity for a prompt review of the need for supportive measures, including the potential modification of these measures, to the extent that the party is affected by the measure(s) being reviewed. The request for review of the denial of, or the need for or details of, supportive measures should be made to the Title IX Coordinator and may be made at any time. Each party will be allowed to submit evidence in support of, or in opposition to, the request to the extent the supportive measures under review affect that party. The Title IX Coordinator will advise the parties of the result of the review. This determination is not subject to further review absent changed circumstances.

Emergency Removal

The University may need to undertake emergency removal of a student in order to protect the safety of its community, which may include contacting local law enforcement to address imminent safety concerns. Emergency removal is not a substitute for reaching a determination as to a student responding party's responsibility for misconduct allegations; rather, emergency removal is for the purpose of addressing imminent threats posed to any person's physical health or safety, which may arise out of alleged misconduct or the allegations of misconduct. Emergency removal may be total (i.e., the student is suspended from the University) or partial (e.g., the student is suspended from being present on campus) at the discretion of the University based on the circumstances.

Prior to removing a student responding party through the emergency removal process, the University will undertake an individualized safety and risk analysis. If the individualized safety and risk analysis determines that an immediate threat to the physical health or safety of any student or other individual arising from the alleged misconduct or the allegations of misconduct justifies removal, then a student responding party will be removed. This is the case regardless of the severity of the allegations and regardless of whether a formal complaint was filed.

In the event a determination is made that a student responding party is an immediate threat to the physical health or safety of an individual, the Title IX Coordinator will provide written notice of the emergency removal to both the reporting party/complainant (if any) and responding party. This notice will contain: (1) the date the removal is set to begin, (2) the reason for the emergency removal, (3) the consequences of non-compliance, and (4) how to appeal the decision. If a student responding party disagrees with the decision to be removed from campus, they may appeal the decision in writing to the Associate Director of Campus Safety within ten (10) days of receiving the notice of removal. The burden of proof is on the student responding party to show that the removal decision was incorrect. The emergency removal will remain in effect while the appeal is considered.

The emergency removal process applies only to student responding parties. Employee responding parties are not subject to this process and may be placed on administrative leave pursuant to the University's applicable policies and/or collective bargaining agreements during any process under this policy.

Investigations

If an investigation is to be conducted pursuant to this policy, the Title IX Coordinator will send a written notice of complaint to both the reporting party and the responding party that will include, to the extent known, (1) the identities of the involved parties; (2) the date, time, location and factual allegations concerning the alleged violation(s); (3) the policy provisions allegedly violated; (4) a description of the investigation and adjudication process; (5)

potential sanctions; (6) the right to an advisor of choice (as defined above); (7) the right to inspect and review evidence in accordance with this policy; (8) notice that knowingly making false statements or knowingly submitting false information is prohibited under University policies; (9) notice that the responding party is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the process; and (10) a statement about the University's policy on retaliation. If, in the course of the investigation, the University decides to investigate allegations that are not included in the notice initially provided to the parties, the Title IX Coordinator will provide notice of the additional allegations to the parties.

Involved parties will be urged to retain any evidence that is relevant to the investigatory process. Any other meetings or interviews will also be preceded by a written notice to all involved parties.

The assigned investigators will conduct their investigation of reports/complaints under this policy expeditiously. To the extent possible, the investigation will begin promptly upon receipt of the complaint. The University endeavors to complete the investigatory phase within 60 days, but this timeframe may be extended if necessary, depending upon the circumstances.

The Title IX Coordinator will assign investigators (usually no more than two) to interview involved parties for the purposes of gathering facts and evidence. An investigator assigned to the investigation will provide written notice of investigation to any individual who is asked to participate in an investigatory interview, including the reporting party and the responding party. The investigator will communicate the date, time and location of the interview in the notice. The investigator will also let the reporting party and responding party know that they may bring an advisor of choice (who may or may not be an attorney) to the investigatory interview, but only for supportive purposes. The advisor in this part of the process (the investigation) will not be allowed to interject without permission from both the investigator and the interviewee.

If either party chooses not to participate in the investigation interview in person and instead wishes to submit written material and evidence (in lieu of an interview), that party will not be allowed to submit additional evidence once the hearing begins absent extraordinary circumstances as determined by the decision-maker. A party who chooses not to participate in the investigation interview will still have a right to review evidence (see below) as outlined in this policy.

Evidence Review

Both the reporting party and responding party have the right to present fact, expert witnesses, and other inculpatory and exculpatory evidence (see Section VII.i and VII.j). Each party also has the right to discuss allegations and gather evidence; however, at all times, the burden of gathering evidence remains with the University. The investigator(s) may decline to interview any witness or to gather information the investigators find to be not relevant or otherwise excludable (e.g., sexual history of the reporting party with a person other than the responding party, materials subject to a recognized privilege, medical records in the absence of a release by the subject of the records, etc.). The investigators will determine the order and method of investigation.

No unauthorized audio or video recording of any kind is permitted during investigation meetings or interviews. If the investigators elect to audio and/or video record interviews, all parties involved in the meeting or interview will be made aware that audio and/or video recording is occurring.

Investigators will provide the reporting party, responding party, and their advisors evidence an equal opportunity to inspect and review any evidence directly related to the allegations that is gathered in the investigation, regardless of whether the information will be relied on in reaching a determination. The evidence will be sent in electronic format or hard copy, or made available through an electronic file sharing platform, subject to redaction permitted and/or required by law. The parties will be provided with at least 10 calendar days to inspect, review, and respond to the evidence and submit a written response, which the investigators will consider prior to completion of the investigative report. Based on the parties' written responses the investigators will determine if additional investigation is necessary (and, if so, will complete any additional investigative steps), and will incorporate relevant elements of the responses and any additional relevant evidence into the report (if no new evidence is presented within 10 calendar days, the investigators will begin preparing the investigatory report).

Investigatory Reports

Once the evidence is gathered and made available for review as described above, the investigators will prepare an investigative report that fairly summarizes relevant evidence. The report will be provided to the reporting party, the responding party, their respective advisors in electronic format or hard copy, or made available through an electronic file sharing platform, and to the Title IX Coordinator. The reporting party and responding party (and their advisors) will have 10 calendar days to review and, if desired, to respond to the report. After 10 days have passed, or after having heard from both parties, whichever comes first, the Title IX Coordinator will provide the report to the decision-maker (see definitions) to begin the hearing process.

In any case where a student is a reporting party or responding party, both the reporting party and responding party will be permitted to submit a written impact statement to the

Title IX Coordinator for consideration after a finding of responsibility for violation of this policy and prior to the determination of an appropriate sanction(s). The Title IX Coordinator will provide copies of any such written impact statements to the official responsible for making a determination regarding appropriate sanctions.

Hearings

Once the decision-maker(s) receives the investigatory report, a live hearing will be scheduled not less than 10 days after the parties have been provided access to the report, for the purpose of determining whether the responding party is responsible or not responsible for the charge(s).

The decision-maker will send notice of the hearing to the reporting party/complainant and responding party, and their advisors, with the date, time and location of the hearing, and how to challenge participation by any decisionmaker for bias or conflict of interest. Bias or conflict of interest will be judged by an objective standard (whether a reasonable person would conclude the decision maker is biased). The decision-maker will work with each party to ensure they have sufficient time to prepare for the hearing.

Participants in the hearing will include the decision-maker, the reporting party/complainant and the responding party, their respective advisors, the investigator(s) who conducted the investigation, and witnesses (solely during their own testimony). Hearings are private. Observers or additional support personnel, other than the parties' advisors, are not allowed unless deemed necessary by the Title IX Coordinator for purposes such as accommodation of a disability. Cell phones and recording devices may not be used by the parties or their advisors in the hearing room(s).

Hearings may be conducted with all parties physically present in the same location or, at the Title IX Coordinator's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling the decision-maker and the parties to simultaneously see and hear any party or witness providing information or answering questions. If either party so requests, the hearing will be conducted with the parties located in separate rooms using technology as described in the preceding sentence.

The Title IX Coordinator may postpone the hearing for good cause as determined by the Title IX Coordinator. Good cause may include, without limitation, unavailability of one or more participants due to unanticipated events or circumstances, the timing of academic breaks or holidays, or other extenuating circumstances.

Procedural Matters

The decision-maker is in charge of organizing the presentation of information to be considered at the hearing. Generally, the hearing will proceed in the following order:

1. Opportunity for opening statement by the reporting party/complainant
2. Opportunity for opening statement by the responding party

3. If requested by the decision-maker, a summary of the results of the investigation by the investigators

4. Questions for the investigator(s) by the decision-maker and, if desired, on behalf of the reporting party/complainant and the responding party (as described below)

5. Questions for the reporting party/complainant by the decision-maker and, if desired, on behalf of the responding party (as described below)

6. Questions for the responding party by the decision-maker and, if desired, on behalf of the reporting party/complainant (as described below)

7. Questions for each witness by the decision-maker and, if desired, on behalf of the reporting party/complainant and the responding party (as described below)

8. Opportunity for closing statement by the reporting party/complainant

9. Opportunity for closing statement by the responding party

Formal rules of evidence will not apply. Except as otherwise expressly prohibited by this policy, any information that the decision-maker determines is relevant may be considered, including hearsay, history and information indicating a pattern of behavior, and character evidence. All evidence previously made available to the parties for inspection and review prior to completion of the investigative report as described above will be made available at the hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of questioning. Absent extraordinary circumstances as determined by the decision-maker, no party may seek to introduce at the hearing any evidence not previously made available in accordance with the preceding sentence, other than the investigative report itself and any responses to the investigative report submitted by the parties.

The decision-maker will address any concerns regarding the consideration of information prior to and/or during the hearing and may exclude irrelevant information. Subject to the terms of this policy, the decision-maker will have discretionary authority to determine all questions of procedure, to determine whether particular questions, evidence or information will be accepted or considered, to call breaks or temporary adjournments of the hearing, to alter the order of the proceedings from that described above, and/or to recall parties or witnesses for additional questions as the decision-maker deems necessary or appropriate. The decision-maker may impose additional ground rules as decision-maker may deem necessary or appropriate for the orderly and efficient conduct of the hearing, which will apply equally to both parties.

Advisors

The reporting party/complainant and the responding party may each have present with them during the hearing an advisor of their choice (at the party's expense, if the advisor is a paid advisor). If a party does not have an advisor present at the hearing, the University will provide, without fee or charge to that party, an advisor of the University's choice.

Except with respect to questioning as described below, the advisor's role is limited to consulting with their advisee, and the advisor may not present evidence, address the decision-maker during the hearing, object to any aspect of the proceeding, or disrupt the hearing in any way, and any consultation with the advisee while the hearing is in progress must be done in a quiet non-disruptive manner or in writing. The advisor may consult with the advisee verbally outside the hearing during breaks, when such breaks are granted by the decision-maker. An advisor's questioning of the other party and any witnesses must be conducted in a respectful, non-intimidating and non-abusive manner. If the decision-maker determines that an advisor is not adhering to these or other ground rules, the advisor may be required to leave the hearing, and the hearing will proceed without an opportunity for the party to obtain a replacement advisor; provided, however, that the University will assign an advisor of the University's choosing, without charge, for the limited purpose of conducting questioning on behalf of the party as provided below.

Witnesses are not permitted to bring an advisor or other person to the hearing, absent an approved disability accommodation. The decision-maker may be advised by and/or consult with the University's legal counsel as the decision-maker deems necessary or appropriate.

Questioning Procedures

The decision-maker will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility; provided that questions that seek disclosure of information protected under a legally recognized privilege will not be permitted unless the person or entity holding the privilege has waived the privilege in writing. Questioning must be conducted by the party's advisor in a respectful, non-intimidating and non-abusive manner, and never by a party personally. If a party does not have an advisor present at the hearing, the Title IX Coordinator will arrange for the University to provide without fee or charge to that party, an advisor of the University's choice to conduct questioning on behalf of that party.

Only relevant questions may be asked by a party's advisor to a party or witness. Before the party or witness answers a question posed by an advisor, the decision-maker will first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The advisor posing the question may request that the decision-maker reconsider any decision to exclude a question and the decision-maker, after soliciting the other party's advisor's opinion, will render a final determination. Such decisions by the decision-maker are final and not subject to further objection or reconsideration during the hearing.

Questions and evidence about the reporting party/complainant's sexual predisposition or prior sexual behavior are not relevant, other than questions and evidence about the reporting party/complainant's prior sexual behavior that (a) are offered to prove that someone other

than the responding party committed the alleged misconduct, or (b) concern specific incidents of the reporting party/complainant's prior sexual behavior with respect to the responding party and are offered to prove consent.

If a party or witness does not submit to questioning by a party's advisor at the hearing, the hearing panel may nevertheless rely on statements of that party or witness, during the hearing or otherwise, in reaching a determination regarding responsibility, but may also determine what (if any) significance to afford those statements in view of the lack of cross examination (for example, the hearing panel may determine whether the statements are sufficiently reliable in the absence of cross examination). The hearing panel will not, however, draw an inference as to responsibility based solely on a party's or witness's absence from the hearing or refusal to answer questions posed by the other party's advisor.

Hearing Determinations

Following conclusion of the hearing, the decision-maker will deliberate and render a determination as to whether the responding party is responsible or not responsible for the alleged violation(s). The decision-maker will use "preponderance of the evidence" as the standard of proof to determine whether each alleged violation of the policy occurred.

If the decision-maker determines that the responding party is responsible for one or more violations, any personal impact statements submitted by the parties will be made available to the decision-maker for purposes of determining sanctions. In addition to the impact statement(s), if any, factors considered when determining sanctions may include:

- the nature and severity of, and circumstances surrounding, the violation(s);
- the responding party's state of mind at the time of the violation(s) (intentional, knowing, bias-motivated, reckless, negligent, etc.);
- the responding party's previous disciplinary history;
- the need for sanctions to bring an end to the conduct; and/or to prevent the future recurrence of similar conduct;
- the need to remedy the effects of the conduct on the reporting party/complainant and/or the community;
- the impact of potential sanctions on the responding party;
- sanctions imposed by the University in other matters involving comparable conduct; and

- any other lawful factors deemed relevant by the decision-maker.

Students who are found responsible will be issued disciplinary action in accordance with Utica University's Code of Student Conduct. More information regarding the point system, and possible sanctions, can be found here. Faculty and other collective bargaining unit members who are found responsible will be issued disciplinary action in accordance with the current Collective Bargaining Agreement between Utica University and AAUP-UC. Staff who are found responsible will be issued discipline in accordance with the current Utica University Employee Handbook.

Notice of Outcome

The decision-maker will issue a written determination including the following information:

1. A description of the charges that were adjudicated;

2. A description of the procedural steps taken from the submission of the formal complaint through the determination, including notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;

3. Findings of fact supporting the determination;

4. Conclusions regarding the application of the policy to the facts;

5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions to be imposed on the responding party, and whether remedies designed to restore or preserve equal access to the University's educational programs or activities will be provided to the reporting party/complainant; and

6. The procedures and permissible bases for the reporting party/complainant and responding party to appeal.

The decision-maker will provide the written determination to the parties simultaneously.

APPEALS

In all cases (except when a vendor, visitor, or other non-community member does not have a right to appeal), either party may appeal (1) the decision-maker's decision; and/or (2) the University's dismissal of a complaint or any allegations therein by filing an appeal within three (3) business days of the decision or dismissal. Where the responding party is a student, the appeal will go to an appeals panel comprised

of three individuals from the University community who are appointed to serve as an appeals board. Where the responding party is a faculty member, the appeal should be made to the Provost. Where the responding party is a staff member, the appeal should be made to the staff member's area vice president.

The grounds for appeal are limited to the following:

- A procedural irregularity that affected the determination or dismissal;

- Newly discovered evidence that was not reasonably available at the time the determination or dismissal was made that could affect the determination or dismissal; or

- The Title IX Coordinator, investigator(s), or decision-maker had a conflict of interest or bias for or against reporting parties/complainants or respondents generally or the individual reporting party/complainant or respondent in the case that affected the determination regarding responsibility or dismissal; or

- A sanction is inconsistent with the severity of the violation or otherwise inappropriate.

In the event that an appeal is submitted, both parties will be notified. Sanctions are stayed pending the outcome of the appeal.

The individual or body considering an appeal may take any of the following actions:

1. Deny the appeal;

2. Approve the appeal;

3. Approve the appeal in part (which may result in a modification of the findings and/or sanction(s) (if applicable)); or

4. Remand the case for further investigation or other process, with guidance.

The appeal decision will be provided to both parties in writing, at or about the same time, and will be final, except to the extent that one or more parties seek review of proceedings ordered on remand.

RECORDS REVIEW

The parties, upon submission of a written request to the Title IX Coordinator, may be permitted to review information in the case file, subject to redaction permitted and/or required by law and consistent with University policy and applicable federal and state law, including the Family Educational Rights and Privacy Act.

VENDOR, VISITOR, OR OTHER NON-COMMUNITY MEMBER (NON-TITLE IX)

In cases involving allegations against a non-community member (e.g., a vendor, visitor, contractor, parent, etc.), the case will be referred to the Office of Human Resources. The Office of Human Resources will work with the appropriate parties (such as the Associate Director of Campus Safety) and make a final determination regarding remedies, including, if appropriate, the imposition of action such as banning the non-community member from University property or other appropriate responsive measures.

A non-community member may make a report that a University community member has violated this policy. A non-community member's complaint will be processed in accordance with the applicable disciplinary procedures listed above.

TRAINING EFFORTS

The Title IX Coordinator, Deputy Title IX Coordinator, Responsible Administrators, investigators, decision makers and persons hearing appeals will receive annual training on relevant topics, including the definitions of sexual harassment, sexual assault, stalking, domestic violence, dating violence, and other forms of sexual misconduct; the scope of the University's education programs and activities; how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable; how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; the effects of trauma; the rights of the respondent, including the right to a presumption that the respondent is "not responsible" until a finding of responsibility is made pursuant to this policy; and how to conduct investigations and disciplinary proceedings that protect the safety of all parties and promote accountability to the University community.

The Title IX Coordinator will also arrange annual training sessions for all members of the Utica University community about prevention of sexual harassment and sexual misconduct. The intent of this training is to maintain an academic and work environment free from sexual harassment and sexual misconduct. An environment that is free from sexual harassment and sexual misconduct provides the opportunity for all individuals to reach their potential in the performance of their educational pursuits or assigned position.

Educational efforts are essential to sustain a University environment that is as free as possible of sexual harassment and sexual misconduct; that fosters respect for all individuals; and that observes high standards of conduct in consensual relationships. The primary goals to be achieved through education include:

- Ensuring that individuals are aware of their rights and all of the resources available to them;
- Notifying individuals of prohibited behaviors;
- Informing parties of the proper way to address complaints of violations of this policy;
- Maintaining a community awareness of the problems this policy addresses;
- Making community members aware of ways that bystander intervention can help reporting and prevention;
- Creating awareness of the dynamics of sexual assault, dating violence, domestic violence and stalking so as to better address those behaviors
- Fostering a sense of safety and wellbeing for all members of the Utica University community

LAW ENFORCEMENT AND CRIMINAL CHARGES

A victim of a crime, including sexual misconduct, is encouraged, but is not required, to report the incident to law enforcement and pursue criminal charges. Members of the University community who want to pursue criminal charges may contact the Student Counseling Center, Division of Enrollment and the Student Experience, the Office of Campus Safety, or the YWCA/local crisis center for assistance in making a report of a crime to law enforcement, or may contact law enforcement authorities directly.

The criminal process and the University's investigatory/disciplinary processes are not mutually exclusive or dependent on each other, meaning that a person may pursue either a criminal complaint or internal complaint with the University, both, or neither. Any internal University investigation and/or hearing process will be conducted concurrently with any criminal justice investigation and proceeding that may be pending. Temporary delays in the University's internal processes may be requested by local law enforcement authorities for the purpose of evidence gathering. Any temporary delay shall not last more than ten (10) days, except when local law enforcement authorities specifically request and justify a longer delay. The University will cooperate with any criminal proceedings as required or permitted by law.

In criminal cases, including non-consensual sex offenses, the preservation of evidence is critical and must be done properly and promptly. Local law enforcement agencies can assist in filing a criminal complaint

and in securing appropriate examination, including by a sexual assault nurse examiner. The New York State Police Sexual Assault Hotline, which can be reached at 1-844-845-7269, may also be of assistance in reporting an incident to law enforcement. Additionally, orders of protection and other forms of legal protection may be available to individuals who have experienced or are threatened with violence. In appropriate circumstances, an order of protection may be available that restricts the offender's right to enter University property, and the University will abide by a lawfully issued order of protection. Utica University officials will, upon request, provide reasonable assistance to any member of the University community in obtaining an order of protection or, if outside New York State, an equivalent protective or restraining order.

Upon receipt of an order of protection (or equivalent order) by the University, University officials will also assist by providing all applicable parties with a copy of the order. Those parties will be given an opportunity to meet or speak with a Utica University representative, or other appropriate individual, who can explain the order and answer questions about it, including information from the order about the other person's responsibility to stay away from the protected person or persons. The University official, or other appropriate individual, will also provide an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and emergency removal, and will assist in contacting local law enforcement related to alleged violations of such an order.

AMNESTY

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

NON-RETALIATION

Retaliation against any person involved in an investigation, proceeding or hearing under this policy, including the reporting party, responding party, witnesses, or University personnel, is strictly prohibited. This includes retaliation from a third party on behalf of the reporting party, responding party, witnesses, or University personnel. The University defines retaliation as any adverse action taken against an individual for making a good faith report under this policy, for testifying, assisting, or participating or refusing to participate in any manner in an investigation, proceeding, or hearing under this policy, or for the purpose of interfering with any right or privilege under this policy. Retaliation includes threatening, intimidating, harassing, coercing or any other conduct that would discourage a reasonable person from engaging in activity protected under this policy. Any retaliation against such individuals is subject to disciplinary or conduct action, including additional interim measures or other sanctions through the appropriate employee or student conduct systems. Reports of retaliation should be directed to the Title IX Coordinator or Deputy Title IX Coordinator, who will then determine the most appropriate course of action.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a Title IX grievance process does not constitute retaliation. At the same time, a determination of no findings, alone, is not enough to conclude that any party made a false statement.

RECORDS RETENTION

Utica University will create and maintain for not less than seven years records documenting all investigations covered under this policy. The records will include all notices, investigatory materials, determinations of responsibility, audio or audiovisual recordings or transcripts of hearings, sanctions imposed on the respondent, remedies provided to the reporting party designed to restore or preserve equal access to the University's education program or activity, and any informal resolutions or appeals-related materials and documents. Parties may request access to these records pertaining to their own case.

Utica University will also keep for not less than seven years records regarding the response to every report of sexual harassment or sexual misconduct of which it becomes aware, even if no formal complaint was filed, including documentation of any supportive measures offered and implemented. If the University does not provide a party with requested supportive measures, then the University will document the reasons for that decision. In each instance, the University will document the reason for

actions taken or not taken, and document that it has taken measures designed to restore or preserve equal access to the University's education program or activity.

The University will also maintain for not less than seven years records of all materials used to train the Title IX Coordinator, Deputy Title IX Coordinator, investigators, decision makers, and persons responsible for considering appeals. The University will make these training materials publicly available on its website.

CLERY ACT COMPLIANCE AND FEDERAL STATISTICAL REPORTING OBLIGATIONS

Certain campus officials have a duty to report incidents of sexual assault, domestic violence, dating violence, and stalking for federal statistical reporting purposes under the Clery Act. All personally identifiable information is kept confidential, but statistical information must be passed along to Director of Student Conduct and Community Standards regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses given) for publication in the University's Annual Security Report (ASR). This report helps to provide the University community with a clear picture of the extent and nature of campus crime.

In the case of a reported situation reflecting a serious and continuing threat to the University community, the University will issue a timely warning to the University community. In such circumstances, the name of the alleged perpetrator may be disclosed to the community, but the name of the victim/reporting party will not be disclosed.

TRANSCRIPT NOTATIONS

For those crimes of violence that the University is required by federal law to include in its Annual Security Report, the transcripts of students found responsible after a hearing and appeal, if any, shall include the following notation (as applicable):

- Withdrew with conduct charges pending;
- Suspended after a finding of responsibility for a code of conduct violation; or
- Expelled after a finding of responsibility for a code of conduct violation.

A student may request that the University remove a transcript notation for suspension, no earlier than one year after the conclusion of the suspension. The University will review the request and decide, in its sole discretion, whether the notation will be removed. Transcript notations for expulsion shall not be removed.

DELEGATION OF AUTHORITY AND UNIVERSITY COUNSEL; USE OF EXTERNAL RESOURCES

Any University administrator or official responsible for performing a responsibility under this policy may delegate their authority, or the Title IX Coordinator may require reassignment of authority, to any other appropriate University official. Delegation of authority may be necessary to avoid conflicts of interest or where time constraints or other obligations prevent a University official named in this policy from fulfilling the person's designated role. The University may also utilize appropriately trained external personnel for any role under this policy as it may deem necessary or appropriate. Any University administrator or official functioning under this policy may seek the advice and counsel of the Title IX Coordinator and/or the University's legal counsel at any time.

COORDINATION WITH OTHER POLICIES

A particular situation may potentially invoke one or more university policies or processes. The University reserves the right to determine the most applicable policy or process and to utilize that policy or process. Without limiting the foregoing, if determined appropriate by the Title IX Coordinator, the processes described in this policy may be used to respond to, investigate and adjudicate conduct allegedly violating other policies if the alleged conduct is related to or arises out of the same facts, circumstances or incidents as alleged prohibited conduct to be addressed pursuant to this policy.

DISCRETIONARY AUTHORITY; CHANGE IN APPLICABLE LAW

The Title IX Coordinator shall have discretionary authority to construe and interpret this policy, and to determine the meaning of any disputed or uncertain provisions. In the course of any process under this policy, the Title IX Coordinator may make minor modifications to procedures that do not materially

jeopardize the fairness owed to any party. The Title IX Coordinator may also vary procedures materially with notice upon determining that changes to law or regulation, or interpretations thereof, require policy or procedural alterations not reflected in this policy. If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this policy, this policy will be construed to comply with the most recent government regulations or holdings.

RESPONSIBILITY

The University's Title IX Coordinator is responsible for ensuring compliance with this policy. Any questions or concerns about the administration of this policy should be directed to the Title IX Coordinator, Kyle Wilson, at (315) 792-3063 or klwilson@utica.edu. Inquiries and complaints may be made externally to:

U.S. Department of Education, Office for Civil Rights

400 Maryland Avenue, SW

Washington, DC 20202-1100

Customer Service Hotline: 800-421-3481

Facsimile: 202-453-6012 TDD: 877-521-2172

E-mail: OCR@ed.gov

Web: http://www.ed.gov/ocr

ENFORCEMENT

Enforcement of Utica University policies is the responsibility of the office or offices listed in the

"Resources/Questions" section of each policy. The responsible office will contact the appropriate authority regarding faculty or staff members, students, vendors, or visitors who violate policies.

Utica University acknowledges that University policies may not anticipate every possible issue that may arise. The University therefore reserves the right to make reasonable and relevant decisions regarding the enforcement of this policy. All such decisions must be approved by an officer of the University (i.e. President, Provost and Senior Vice President for Academic Affairs, or Vice President for Financial Affairs).

RESOURCES/QUESTIONS

For questions regarding the implementation and interpretation of this policy, contact Kyle Wilson, Title IX Coordinator, at (315) 792-3063 or via email at klwilson@utica.edu.

Please note that other Utica University policies may apply or be related to this policy. To search for related policies, use the Keyword Search function of the online policy manual.

Appendix F: Sex Discrimination, Sex-Based Harassment, and Sexual Misconduct Policy (Vacated Policy)

POLICIES AND PROCEDURES

Sex Discrimination, Sex-Based Harassment and Sexual Misconduct Policy

(for conduct that occurred after August 1, 2024 and before January 1, 2025)

POLICY:

Utica University is committed to providing a learning and working environment in which all interpersonal relationships are based upon respect and dignity. Therefore, in accordance with Title IX of the Education Amendments of 1972 (Title IX), the Clery Act, the Violence Against Women Act, and New York Education Law Article 129-B, Utica University will not tolerate sex-based harassment or sexual misconduct, which are forms of discrimination on the basis of sex, that include any of the following when they impact or have the potential to impact the educational or employment environment of any members of the University community: sex discrimination, sex-based harassment (including harassment based on gender identity, gender expression, or transgender status); sexual assault; domestic or dating violence; stalking; sexual exploitation; or other behavior prohibited by this policy.

Utica University endeavors to provide a fair, impartial, and prompt response when sex discrimination (including sex-based harassment) or other forms of sexual misconduct is/are alleged to have occurred within the University community. Reports of such conduct will be promptly and thoroughly investigated either through a process based on Title IX regulations, if applicable, or through an alternative investigative process.

Individuals who are found to have been engaged in sex discrimination (including sex-based harassment) or other forms of sexual misconduct will be sanctioned following guidelines established in the applicable handbook, contract, or policy. More specifically, any individual who engaged in such behavior will be subject to disciplinary action through the appropriate disciplinary process.

The University encourages any individuals covered by this policy who believe they are the victim of sex discrimination (including sex-based harassment) or other forms of sexual misconduct to report it and to take steps to preserve evidence, as it may be helpful in criminal and/or University disciplinary proceedings. Individuals who believe they are a victim of such conduct have the option of filing a report with the University, with local law enforcement, or with both. Those wishing to notify local law enforcement authorities will be assisted in doing so. Because the standards for finding a violation of criminal law are different from the standards in this policy, criminal investigations or reports will not determine whether or not a violation of this University policy has occurred.

For the purposes of this policy, the word “campus” refers to any property leased or owned by Utica University.

SCOPE:

This policy and its procedures apply to all Utica University students, faculty, and staff members. In addition, independent contractors, vendors, visitors, volunteers, alumni, and other guests of the University are expected to comply with this policy. This policy covers all academic, educational, co-curricular, athletic, and other University programs, including those that may take place off campus. Conduct that occurs off campus and not in connection with University programs may violate this policy if the conduct creates a threatening or hostile environment on campus or within a University program, or if the incident causes concern for the safety or security of the University's campus or otherwise impacts the campus community and/or the operation of University programs or activities. This policy also applies regardless of the reporting party's or responding party's race, creed, color, sex, pregnancy, ethnic or national origin, religion, marital status, age, sexual orientation, gender identity, gender expression, veteran status, disability, citizenship status, genetic predisposition, domestic violence victim status, or other protected status under applicable local, state, or federal law.

One or more of the University's personnel policies or faculty and staff handbook policies may overlap with this policy in a particular situation. The processes described in this policy apply to any situation where a student is the reporting party or responding party (as defined below). In all other situations, the University reserves the right to apply this process or another applicable University policy or process. The University will apply this process to any situation where the University determines that Title IX requires the application of this process.

This policy is effective on August 1, 2024, and will only apply to Prohibited Conduct that allegedly occurred on or after August 1, 2024. For Prohibited Conduct allegedly occurring prior to August 1, 2024, please see the Previous Prohibited Conduct Policy.

REASON FOR POLICY:

Utica University has an ethical and legal obligation to create a working and learning environment free from all forms of discrimination and harassment, including sexual assault, dating violence, domestic violence, stalking, or any other form of sexual misconduct, and is committed to fostering a healthy and safe environment in which every member of the University community can realize their fullest potential. This policy has been developed to reaffirm these principles, to define community expectations, to establish a mechanism for determining when those expectations have been violated, and to provide recourse for those individuals whose rights have been violated.

The cost of sex discrimination (including sex-based harassment) or other forms of sexual misconduct to individuals is high and can include, but is not limited to, physical injury or illness, depression, feelings of helplessness, headaches, substance abuse, anxiety, sleep disturbances, and disordered eating. The cost of such misconduct to the University can include, but is not limited to, decreased productivity, absenteeism, increased demand for services needed to address issues raised for the targets of harassing behavior, and eroded trust in the institution. Sex discrimination (including sex-based harassment) or other forms of sexual misconduct may also result in a decrease in morale, reduce participation in life-enriching student activities, and lower student success, and may interfere with an

employee's ability to perform their job duties and a student's ability to fully participate in the educational process.

All members of the Utica University community have a responsibility to cooperate in creating a climate where sex discrimination (including sex-based harassment) or other forms of sexual misconduct do not occur. In addition to ensuring legal compliance, this policy is designed to prepare members of the University community for that responsibility by creating an awareness of behavior that is considered to be sex discrimination (including sex-based harassment) or other forms of sexual misconduct, as well as fostering an understanding of the procedures Utica University will use to address such behavior in a way that protects reporting parties, witnesses, and responding parties.

Academic Freedom

Utica University is an academic institution at which academic freedom is necessary and valued. The University will not construe this policy to prevent or penalize a statement, opinion, theory, or idea offered within the bounds of legitimate, relevant, and responsible teaching, learning, working, or discussion.

ROLES AND RESPONSIBILITIES:

There are a number of individuals who have key roles and responsibilities throughout the reporting, investigatory and adjudication processes. These individuals are required to be free from conflicts of interest or bias for, or against, reporting parties and responding parties.

Title IX Coordinator

Utica University's Title IX Coordinator is responsible for receiving reports of sex discrimination, including sex-based harassment, and other forms of sexual misconduct. Reports to the Title IX Coordinator may be made at any time (including non-business hours) by phone, e-mail, or regular mail. If a report is determined to meet the definition of a potential violation of this policy, the Title IX Coordinator will be responsible for overseeing the resulting processes and for providing all required disclosures and notifications to the reporting and responding parties. The Title IX Coordinator will also communicate any supportive measures to reporting and responding parties. All of this will be done in a prompt and fair manner. The Title IX Coordinator is also responsible for monitoring the University's education programs and activities for barriers to reporting information about conduct that reasonably may constitute a violation of this policy, and taking steps reasonably calculated to address such barriers.

The Title IX Coordinator works with others at Utica University to make sure policies and procedures are updated and communicated as needed.

Utica University's Title IX Coordinator is:

Kyle Wilson
Title IX Coordinator
Phone Number: 315-792-3063
Email address: klwilson@utica.edu
Office Location: 124 Addison Miller White Hall (Utica University Main Campus – 1600 Burrstone Road, Utica, NY 13502)

Utica University also has Deputy Title IX Coordinators who can coordinate investigations in the absence of the Title IX Coordinator, or who is available to coordinate cases that involve employees.

Deputy Title IX Coordinator:

Kristin St. Hilaire, Director of Athletics and Physical Education
Phone Number: (315) 792-3050
Email Address: kmsthila@utica.edu
Office Location: Clark Athletic Center (Utica University Main Campus – 1600 Burrstone Road, Utica, NY 13502)

Title IX Investigators

Title IX investigators are Utica University employees who are trained to conduct fair and comprehensive investigations into complaints of sex discrimination (including sex-based harassment) or other forms of sexual misconduct. These individuals receive training specific to conducting impartial investigations with fairness to both parties and are also trained in trauma informed practices. Title IX investigators are assigned to relevant evidence and prepare a report of that evidence to the Title IX Coordinator, who then provides it to the decision-maker (see below).

Decision-Maker

The decision-maker is a Utica University employee who is responsible for reading investigative reports provided by the Title IX Coordinator, convening a live hearing when necessary, managing the live hearing process, and determining whether the responding party is responsible for alleged violations and, if applicable, appropriate sanctions, based on all of the information provided. Decision-makers receive specific training to prepare them for this responsibility.

For cases in which the responding party is a student, the decision-maker is the Director of Student Conduct and Community Standards, or another party designated by the University (such as another trained member of the Enrollment and the Student Experience team). For cases in which the responding party is an employee, the decision-maker is a staff member in the Office of Human Resources.

Advisor

The reporting party and responding party have the opportunity to select someone to be with them throughout the investigatory and hearing processes. This individual, called the "advisor of choice" or "advisor", may, but is not required to, be an attorney. In cases where a student does not have access to an advisor, the University will provide an advisor of the University's choice. The advisor will be copied on correspondence that is presented throughout the investigatory process, as well as communications related to determination of the hearing process, and any associated disciplinary action.

Appeals Board

After a determination is made, or if a complaint or specific allegations in a complaint is/are dismissed as described below, the reporting party and responding party both have the right to appeal the outcome and/or associated disciplinary sanctions (or the dismissal). The appeals board of Utica University is comprised of three individuals who are trained in this responsibility, who will hear appeals

and determine whether or not the matter needs to be reviewed as a result of one or more of the grounds set forth in this policy.

RESOURCES:

Confidential Resources

All members of the Utica University community have a number of resources available to discuss concerns or questions about sex discrimination (including sex-based harassment) or other forms of sexual misconduct. Individuals who have experienced such conduct are encouraged to seek support for their physical and emotional needs.

A student seeking confidential emotional or medical care may contact the following:

Utica University Health & Wellness Center
Medical & Counseling Services
Student Wellness Center, Room 204 Strebel Student Center
(315) 792-3094
HWC@utica.edu

UWill Virtual Counseling (University partnership for free teletherapy)
Register/Login: http://app.uwill.com/register
support@uwill.com

Bethany VanBenschoten*
Program Manager, Institute for the Study of Integrative Healthcare/Campus Victims Advocate
407 Clark City Center
(315) 792-5294
bavanben@utica.edu

YWCA Mohawk Valley Hotline - Sexual Assault, Domestic Violence, Stalking*
Oneida County (315) 797-7740
Herkimer County (315) 866-4120
YWCAMV.org/chat (Use chat for help after-hours or on weekends)

**Note – these confidential sources are responsible for reporting non-identifiable statistics as required by the Clery Act.*

The health and counseling services noted above are available to Utica University students free of charge.

An employee seeking confidential emotional support may contact the University's employee assistance program:

1-800-EAP-CALL (1-800-327-2255)
www.nexgeneap.com
Company ID: 9000 (Needed only to create an account on website)

These resources afford students and employees the opportunity to discuss a concern or situation and the available options. These resources also offer the opportunity to gain information about the

University's formal complaint procedures under this policy. These resources must share the following information:

- That they are confidential, including when they are not required to notify the Title IX Coordinator about conduct that reasonably may constitute sex discrimination (including sex-based harassment) or other forms of sexual misconduct.
- How to contact the University's Title IX Coordinator and how to make a complaint of sex discrimination (including sex-based harassment) or other forms of sexual misconduct; and
- That the Title IX Coordinator may be able to offer and coordinate supportive measures, as well as initiate an informal resolution process or an investigation under the grievance procedures.

Reports made to these resources will **not** be reported to other University officials in any personally identifiable manner (reports made to some of these individuals may result in a report to University officials that an incident occurred, but will not result in the reporting of any personally identifiable information), and, as a result, any individual making a report solely to such confidential resources should not expect action to be taken by the University against any alleged perpetrator. Similarly, if a victim discloses actions constituting a violation of this policy through public awareness events, such as "Take Back the Night" or another similar event or forum, Utica University is not obligated to begin an investigation. Utica University may, however, use the information to inform the need for additional education and prevention efforts.

Confidential reports of any form of sexual misconduct can also be made to off-campus resources, including:

YWCA Mohawk Valley Hotline - Sexual Assault, Domestic Violence, Stalking*
Oneida County (315) 797-7740
Herkimer County (315) 866-4120
YWCAMV.org/chat (Use chat for help after-hours or on weekends)
**Note – this confidential source is responsible for reporting non-identifiable statistics as required by the Clery Act*

Suicide/Crisis Services - Mobile Crisis Assessment Team (MCAT)
24 Hour Hotline
(315) 732-6228

NYS Office of Victim Services
Hotline
1-800-247-8035

National Domestic Violence Hotline
1-800-799-7233 (or if you are unable to speak safely, log onto thehotline.org or text LOVIES to 1-866-3319474)

RAINN Hotline (National Sexual Assault Hotline)
1-800-656-HOPE (or 1-800-656-4673)

Crisis Services for Students, Faculty, Staff, and Contract Staff at Liverpool, NY site:
Vera House

723 James St.
Syracuse, NY 13203
Phone: (315) 425-0818
24-Hour Hotline: (315) 468-3260
Sexual Assault Nurse Examination (SANE) services are provided to all area emergency rooms through Vera House.

Crisis Services for Students, Faculty, Staff, and Contract Staff at Latham, NY site:
New York State Coalition Against Sexual Assault
30 N. Greenbush Rd. Suite 3
Troy, NY 12180
Phone: (518) 482-4222

Crisis Services for Students, Faculty, Staff, and Contract Staff at St. Petersburg, FL site:
Suncoast Center, Inc.
PO Box 10970
St. Petersburg, FL 33733
Phone (appointments): (727) 388-1220
Hotline: (727) 530-7273

In addition to the resources listed above, Utica University shares a Memorandum of Understanding (MOU) with Mohawk Valley Health System, located in Utica, NY. This MOU ensures that any member of the University community who is a victim of sexual assault will have access to a sexual assault examination by a sexual assault nurse examiner or through a physician referral to a sexual assault nurse examiner.

When an individual shares information with a confidential resource (on or off campus) as a confidential communication in the course of a protected relationship, the confidential resource cannot disclose the information (including information about whether an individual has received services) to any third party without the individual's written permission or unless permitted or required consistent with ethical or legal obligations. Accordingly, a report to a confidential resource is not a report to the University and will not result in an investigation or disciplinary action.

Non-Confidential Resources/Mandatory Reporters: University Personnel

All other University personnel are considered non-confidential. When they observe or learn about conduct potentially constituting sex discrimination (including sex-based harassment) or other forms of sexual misconduct, they must respond as follows:

- Custodial, Facilities, Bookstore and Dining Services personnel, other than those in administrative leadership positions, must either (a) report such information to the Title IX Coordinator, or (b) provide to any person who discloses information about such conduct the Title IX Coordinator's contact information and information about how to make a complaint.

- All other University personnel must report such information to the Title IX Coordinator.

If you are unsure of an individual's reporting obligations, please ask before disclosing any information you wish to remain confidential.

Even University 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 for the Title IX Coordinator to investigate and/or seek a resolution. Non-personally identifiable information may also be provided to the Vice President for Emergency Management to report statistical information about Clery reportable crimes.

Non-Confidential External Resources: Law Enforcement

All persons covered by this policy have the right to involve state and/or local law enforcement in matters of sex discrimination (including sex-based harassment) or other forms of sexual misconduct. Following is contact information for those resources:

New York State Campus Sexual Assault Victim's Unit (NYSCSAVU)
New York State Police
1-844-845-7269

Utica Police Department (local police)
413 Oriskany Street West
Utica, New York 13502
Phone: (315) 735-3301
New Hartford Police Department (local police)
8635 Clinton St., New Hartford, NY 13413
Phone: (315) 724-7111

For Students, Faculty, Staff, and Contract Staff at Liverpool, NY site:
Liverpool Police number
Phone: (315) 457-0722
Onondaga County Sheriff (located in Liverpool, NY)
Phone: (315) 435-0722

For Students, Faculty, Staff, and Contract Staff at Latham, NY site:
Colonie Town Police Department
(518) 783-2744

For Students, Faculty, Staff, and Contract Staff at St. Petersburg, FL site:
Pinellas County Police
Phone: (727) 582-6200

A reporting party who is not satisfied with the attempts to resolve the misconduct may seek resolution through other sources, such as the New York State Division of Human Rights, the Equal Employment Opportunity Commission, the Office for Civil Rights, or the U.S. Department of Education.

Third Party Reports

In cases where sex discrimination (including sex-based harassment) or other sexual misconduct is reported by a third party (e.g. a faculty member, Residence Life staff member, student organization advisor, etc.), the person identified as the target of the behavior will be notified by the Title IX Coordinator or, if appropriate, by one of the Deputy Title IX Coordinators, that a report has been received. Every effort will be made to meet with the individual to discuss her/his/their options and resources at the University and in the community.

DEFINITIONS OF SPECIFIC VIOLATIONS:

This policy applies to alleged conduct in violation of Title IX of the Education Amendments of 1972, and also applies to a broader range of contexts and behaviors inconsistent with the University's commitment to equal opportunity and, in some cases, the University's obligations under other applicable laws such as New York Education Law Article 129-B.

The University recognizes the following as conduct violations under this policy ("Prohibited Conduct"):

A. Sex Discrimination. Sex discrimination is different treatment with respect to an individual's employment or participation in a University education program or activity based, in whole or in part, on sex, sex stereotypes, gender, sexual orientation, sex characteristics, pregnancy or pregnancy-related conditions or gender identity. Sex Discrimination includes, but is not limited to, Sex-Based Harassment, Sexual Assault, Domestic Violence and Dating Violence, and Stalking on the basis of sex.

B. Sex-Based Harassment. "Sex-based harassment" means unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex, sex stereotypes, gender, sexual orientation, sex characteristics, pregnancy or pregnancy-related conditions or gender identity, that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the University's education program or activity, or otherwise has the purpose or effect of unreasonably interfering with an individual's work, academic, or extracurricular performance, or creating an intimidating, hostile, or offensive work or learning environment, even if the reporting individual is not the intended target of the sex-based harassment.

   Harassing conduct can occur in various forms, including:

   - Verbal – Conduct such as unwelcome sexually suggestive, demeaning, or graphic comments; unwelcome verbal sexual advances; using slurs to refer to a person; bullying, yelling or name-calling; refusing to use a person's preferred pronouns or name; or jokes or comments that demean a person on the basis of gender, sexual orientation, gender identity or gender expression.

   - Physical – Conduct such as unwanted sexual contact or physical sexual advances (e.g., unwanted touching, pinching, patting, kissing, hugging, grabbing, brushing against another person's body or poking another person's body); sexual intimidation through physical threats; or physical threats toward or intimidation of another on the basis of gender, sexual orientation, gender identity or gender expression.

- Visual – Conduct such as exposing another person to unwanted pornographic images; creating or displaying pictures, symbols, flags, cartoons, or graffiti that is/are sexually offensive or disparage(s) another person or group based on gender, sexual orientation, gender identity or gender expression.

- Communication-based – Conduct such as phone calls, e-mails, text messages, chats, blogs or online communications that offend, demean, or intimidate another on the basis of gender, sexual orientation, gender identity or gender expression. Members of the community are expected to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via social media, unwelcome sexual or sex-based messaging, distributing or threatening to distribute revenge pornography, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of, or group within, the University community.

- Sex stereotyping – Conduct in which another person's or group's conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.

A determination as to whether sex-based harassment occurred depends on the totality of the circumstances, including the context of a communication or incident, the relationship of the individuals involved in the communication or incident, whether an incident was an isolated incident or part of a broader pattern or course of offensive conduct, the seriousness or severity of the incident, the intent of the individual who engaged in the allegedly offensive conduct, and its effect or impact on the individual or group and the learning community.

A "hostile environment" is created when the offensive behavior interferes with an individual's ability to participate in the University's programs (i.e., to work and to learn) when judged against a reasonable person standard. However, the University encourages individuals experiencing or witnessing offensive behavior to make a report as early as possible so as to have the situation corrected before it reaches the level of a hostile environment. Individuals with a concern need not worry about whether the behavior is sufficiently serious to constitute a hostile environment. The University reserves the right to remedy sex-based harassment pursuant to this policy even if the behavior in question does not rise to the level of legally recognized or actionable harassment.

The fact that a person was personally offended by a statement or incident does not alone constitute a violation of this policy. The determination as to whether this policy has been violated considers the totality of the circumstances as described above. In all instances, a key factor is whether the complained-of behavior occurred based on sex, sex stereotypes, gender, sexual orientation, sex characteristics, pregnancy or pregnancy-related conditions or gender identity, or was sexual in nature. If it did not or was not, the behavior is not regulated by this policy. However, even if the conduct does not constitute Prohibited Conduct under this policy, the University may respond by providing individual and community support and resources to those who have been impacted.

The University also prohibits "quid pro quo" sex-based harassment, which means "this for that" harassment. It is a violation of this policy for any employee, agent, or other person authorized by the University to provide an aid, benefit, or service under the University's education program or activity to

explicitly or impliedly condition the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.

F. Sexual Assault. Consistent with federal law, the University defines sexual assault as including:

- Non-Consensual Sexual Intercourse. Sexual assault of this type includes 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 other person (including where the victim is incapable of affirmative consent due to temporary or permanent mental or physical incapacity).

- Non-Consensual Sexual Contact. This form of sexual assault includes any intentional touching, however slight, for purposes of sexual gratification, of the private body parts (including genitalia, anus, groin, breast, inner thigh, or buttocks) of another person, without the consent of the other person (including where the victim is incapable of giving consent due to temporary or permanent mental or physical incapacity. This may include non-penetrative acts, touching directly or with an object, and/or touching the private body parts of another over clothing. This may also include forcing or causing another without affirmative consent to touch one's own private body parts.

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

- Statutory Rape. Non-forcible sexual intercourse with a person who is under the statutory age of consent. The statutory age of consent in New York is 17.

G. Dating Violence. Dating violence refers to violence (including but not limited to sexual or physical abuse or the threat of such abuse) committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, where the existence of such a relationship shall be determined based on the statement of the reporting party with consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship. Dating violence can include behavior such as coercion, isolation or other forms of emotional, verbal or economic abuse if it reflects a threat of sexual or physical abuse as described above. Dating violence does not include acts covered under the definition of domestic violence.

H. Domestic Violence. Domestic violence refers to violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction where the University is located, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. To categorize an incident as Domestic Violence, the relationship between the responding party and the reporting party/complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship as described above.

I. Stalking. Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others; or suffer substantial emotional distress. For the purposes of this definition, (i) a "course of conduct" means two or more acts, including, but not limited to, acts in which the individual directly, indirectly, or through third 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; (ii) "reasonable person" means a reasonable person under similar circumstances and with similar identities to the reporting party/complainant; and (iii) "substantial emotional distress" means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling. Examples of behavior that may constitute stalking include repeated, intentional following, observing or lying in wait for another; using "spyware" or other electronic means to gain impermissible access to a person's private information; repeated, unwanted, intrusive, and frightening communications by phone, mail, email, text, etc.; making direct or indirect threats to harm an individual or the individual's relatives, friends, or pets; or damaging or threatening to damage the property of the targeted individual.

J. Sexual Exploitation. Taking nonconsensual or abusive sexual advantage of another for one's own benefit or for the benefit of anyone other than the person being exploited, if the conduct does not otherwise constitute another offense under this policy. Examples of sexual exploitation include (a) sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed); (b) taking pictures, video, or audio recording of another in a sexual act, or in any other sexually-related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent or beyond the parameters of consent), including the making or posting of revenge pornography; (c) exposing one's genitals in non-consensual circumstances or nonconsensual disrobing of another person so as to expose the other person's private body parts; (d) prostituting another person; (e) engaging in sexual activity with another person while knowingly infected with a sexually-transmitted disease (STD) or infection (STI), without informing the other person of the STD or STI; (f) causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity; (g) misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections; (h) forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity; or (i) knowingly soliciting a minor for sexual activity.

K. Retaliation. Intimidation, threats, coercion, or discrimination against any person by for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations or this policy, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner (as a reporting party, responding party, witness or otherwise) in an investigation, proceeding, or hearing under this policy, including in an informal resolution process.

RELATED DEFINITIONS

1. **Affirmative Consent** - In order for individuals to engage in sexual activity of any type with each other, there must be clear affirmative consent. Whenever the term consent is used in this policy, it should be understood to mean affirmative consent as defined here. Affirmative consent is a knowing, voluntary and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of affirmative consent does not vary based on a participant's sex, sexual orientation, gender identity, or gender expression. Under this policy, "No" always means "No." At the same time, silence, or the absence of an explicit "no", cannot be assumed to indicate consent.

   Other considerations with respect to affirmative consent include the following:

   i. Consent to some form of sexual activity between or with any party cannot be automatically taken as consent to any other sexual activity.

   ii. Past consent to sexual activity cannot be presumed to be consent to engage in the same sexual activity in the future.

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

   iv. Consent can be withdrawn at any time by expressing in words or actions that the individual no longer wants the sexual activity to continue and, if that happens, the other person must stop immediately.

   v. Affirmative consent cannot be obtained by use of force, compelling threats, intimidating behavior, or coercion. Consent cannot be given when a person is incapacitated, as defined below. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.

2. **Incapacitation** – This occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness, mental disability, being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. In order to give affirmative consent, one must be of legal age, which is 17 in the state of New York. Use of alcohol or other drugs does not, in and of itself, negate a person's ability to give affirmative consent. However, depending on the degree of intoxication, someone who is under the influence of alcohol or drugs or other intoxicants may be incapacitated and therefore unable to consent. A person who has been drinking or using drugs is still responsible for ensuring that the other person provides affirmative consent to engage in sexual activity. An individual's incapacity may also be caused by consuming "date rape" drugs. Possession, use, and/or distribution of any of these substances (including Rohypnol, Ketamine, GHB, Burundanga, and others) is prohibited, and administering any of these drugs to another person for the purpose of inducing one to consent to sexual activity is a violation of this policy.

3. **Coercion** – Coercion is a threat, undue pressure, or intimidation to engage in sexual activity. Coercion is more than an effort to persuade, seduce, entice, or attract another person to engage in sexual

activity. A person's words or conduct are sufficient to constitute coercion if they deprive another individual of the ability to freely choose whether or not to engage in sexual activity.

4. **Force –** Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that overcome resistance or produce consent.

5. **Reporting Party or Complainant –** The reporting party or complainant is the person who is alleged to be the victim of Prohibited Conduct. A person who files a report on behalf of another person is referred to more specifically as a third-party reporter. The person who is directly affected by the reported behavior, whether reported by them or a third party, will be referred to as the reporting party or complainant.

6. **Responding Party –** The responding party is the person who is alleged to have engaged in Prohibited Conduct and, if a process is commenced, is responding to the allegations. The responding party may also be referred to as the respondent.

7. **Supportive Measures –** Non-disciplinary, non-punitive individualized services offered, as appropriate and as available, and without fee or charge to the reporting party or responding party, before or after the filing of a complaint or where no complaint has been filed. These measures are designed to restore or preserve equal access and ensure the safety of all involved parties. Examples of supportive measures include, but are not limited to:

- counseling services.
- extensions of deadlines or other course-related adjustments.
- modification of work or class schedules.
- safety escorts.
- mutual no-contact restrictions and, in certain cases, one-way no contact orders,
- changes in work or housing locations.
- leaves of absence.
- increased security and monitoring of certain areas of the campus; and other similar measures.

8. **Preponderance of Evidence Standard –** This is the standard of evidence that is used to determine whether or not a violation of this Utica University policy has occurred. This standard states that based on the collected evidence, it is "more likely than not" that a violation occurred. The burden of proof lies with the institution, and it applies to students, faculty and staff.

9. **Inculpatory Evidence** – This is evidence that tends to reflect a responding party's responsibility for an alleged violation.

10. **Exculpatory Evidence –** This is evidence that tends to reflect that a responding party is not responsible for an alleged violation.

INFORMAL RESOLUTION

Informal resolutions may occur in the place of a formal grievance process only with voluntary, informed and written consent by both parties and approval by the Title IX Coordinator. Examples of informal resolution include mediation or restorative justice. Informal resolution may occur prior to, after, or without the filing of a complaint.

In cases where the Title IX Coordinator determines that informal resolution may be appropriate, the Title IX Coordinator will first consult with the reporting party/complainant about the option to pursue informal resolution. If the reporting party/complainant is agreeable, then the Title IX Coordinator will consult with the responding party to discuss the process. If both parties are agreeable, the informal resolution process will be coordinated by the Title IX Coordinator. Informal resolutions should only be handled by an individual who is trained in facilitation. Either party who enters into an informal resolution process may decide to withdraw from the process prior to agreeing to a resolution. There may be instances when, for the safety of others who may be affected by the alleged action, an investigation will still be conducted despite the willingness of the parties to engage in an informal resolution process. Should this type of situation arise, the University will communicate the need to investigate to the reporting party and responding party.

All parties must agree to enter the informal resolution process through an informed written consent. Prior to the initiation of the informal resolution process, the Title IX Coordinator will provide to the parties a written notice that explains:

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

FORMAL GRIEVANCE PROCESS:

Any Utica University community member who has been the victim of Prohibited Conduct has the right to make a report to the University, local law enforcement, and/or the state police, or choose not to report. If reported to the University under this policy, a reporting individual will be protected from retaliation and will receive appropriate assistance and resources from Utica University. Please see the Student's Bill of Rights for cases involving sexual assault, domestic violence, dating violence, or stalking.

The grievance process treats all reporting parties and responding parties equitably and is designed to preserve or restore equal access to all of the University's education programs and activities (including the workplace/work environment).

Making a report: Those who wish to file a report of Prohibited Conduct may do so by submitting a complaint to the Title IX Coordinator by using the contact information provided in this policy. A complaint can be written or verbal, so long as it is objectively understood that a request has been made for the University to investigate and decide about an incident. The person making the report, or the reporting party, may also make a report to the Title IX Coordinator without submitting a complaint.

Reporting Party Request for Confidentiality: In circumstances where a reporting party does not make a complaint, the reporting party may request that the University maintain the report as confidential. This type of request may be made if the reporting party does not want their identity known to the responding party and/or witnesses or wishes that the University not investigate or that action not be taken against an alleged perpetrator.

In situations where a reporting party makes such a request, the University's ability to investigate and respond to the allegations may be limited. If at any point the reporting party requests confidentiality and/or that action not be taken, the University will make reasonable attempts to comply with this request, but it is not required to honor these requests. The University may, in appropriate circumstances, decide it must move forward with an investigation and/or disciplinary process.

The University is required by Title IX and New York State law to weigh the reporting party's request for confidentiality and/or that no action be taken against the University's commitment to provide a reasonably safe and non-discriminatory environment. In evaluating such a request, the Title IX Coordinator will consider a range of factors, including, but not limited to:

- Whether the reporting party wants to participate in a formal process.
- The reporting party's reasonable safety concerns regarding initiation of a complaint.
- The risk that additional acts of Prohibited Conduct would occur if a complaint were not initiated.
- The severity and impact of the alleged Prohibited Conduct, including whether the Prohibited Conduct, if established, would require the removal of a responding party from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence.
- Whether the responding party has a history of violent behavior or is a repeat offender.
- The respective ages and relationship of the parties, including whether the respondent is an employee of the University.
- Whether the reporting party is a minor under the age of 18.
- Whether the responding party has admitted to the Prohibited Conduct.
- Whether there have been other Prohibited Conduct complaints about the responding party.
- Whether the reported incident represents escalation in unlawful conduct on behalf of the responding party from previously noted behavior.
- Whether the responding party has a history of arrests or records from a prior school indicating a history of violence.
- Whether the responding party allegedly threatened further Prohibited Conduct against the victim or others.

- The scope of the alleged Prohibited Conduct, including information suggesting a pattern, ongoing Prohibited Conduct, or Prohibited Conduct alleged to have impacted multiple individuals.
- Whether the Prohibited Conduct was allegedly committed by multiple individuals.
- Whether the Prohibited Conduct was allegedly perpetrated with a weapon or force.
- Whether the information provided suggests that the act is part of a larger pattern at a specific location or by a particular group.
- Whether information can be obtained by means other than from the impacted individual (e.g., by personnel or security cameras, witnesses, or through physical evidence);
- Whether the University could end the alleged Prohibited Conduct and prevent its recurrence without initiating a grievance procedure under this policy and/or
- The overall safety of the campus community (including the reporting party).

If, after considering these and other relevant factors, the Title IX Coordinator determines that the conduct as alleged presents an imminent and serious threat to the health or safety of the reporting party/complainant or other person, or that the conduct as alleged prevents the University from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a complaint.

The Title IX Coordinator will notify the reporting party if the University cannot honor the reporting party's request for confidentiality and/or that no action be taken. As noted above, even University offices and employees who cannot guarantee confidentiality will maintain privacy to the greatest extent possible. Information provided to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution. Individuals participating in an investigation, proceeding, or hearing will be encouraged to maintain the privacy of the process in order to assist the University in conducting a thorough, fair, and accurate investigation. The University will take reasonable steps to prevent and address the parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through the processes contemplated by this policy; provided that such steps do not restrict the ability of the parties to obtain and present evidence, to speak to witnesses, to consult with their family members, Confidential Resources, or advisors, or otherwise prepare for or participate in a process. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of Prohibited Conduct are also authorized.

Consolidation: The Title IX Coordinator may determine that cases where the allegations arise out the same set of facts should be consolidated for purposes of the investigation and/or adjudication. Instances where consolidation of complaints may occur include but are not limited to cross-complaints filed by the parties against each other, multiple complaints by a single reporting party against a responding party, or multiple complaints by a single reporting party against multiple responding parties.

Grievance Process Time Frames: The timeframe for the grievance process under this policy begins when a complaint is made. The grievance process will be concluded within a reasonably prompt manner, typically within no longer than 120 days after a complaint is made, provided that the process may be extended with notification to the parties for good reason, including but not limited to the absence of party, a party's advisor, or a witness; concurrent law enforcement activity; breaks in the academic schedule; or approved extensions. The timeframes of the major stages of the grievance

process are estimated as follows: Intake: 10 days; Investigation: 30 days; Evidence Review and Investigative Report Review /Response: 25 days; Adjudication (including pre-hearing meetings and issuance of Notice of Outcome): 40 days; and Appeal Process: 15 days. Both parties will be notified simultaneously if the University determines the grievance process cannot be concluded within 7 days. The notification will outline the reasons for extension.

Notifications to Reporting Party; Formal Complaint Process: Once a report is received, the Title IX Coordinator will promptly contact the reporting party confidentially to discuss any available supportive measures. If a complaint has not yet been received, the Title IX Coordinator will contact the potential reporting party, inform them of the process for making a complaint, and engage in a discussion about supportive measures (with or without a complaint). The reporting party will be informed that although emergency removal may be an option (only if a threat of immediate safety is present), no disciplinary sanctions against the responding party will occur until the grievance process is completed and a determination is reached. The reporting party will also be informed that the University will make reasonable efforts to honor their wishes with regard to whether or not an investigation takes place, but that if the Title IX Coordinator decides to submit the complaint because of known circumstances, an investigation may still occur.

A complaint submitted by the reporting party or the Title IX Coordinator is necessary to initiate a disciplinary resolution under this policy. A third party or anyone other than the victim of the misconduct may report an incident as described above but may not make a complaint. However, a complaint may be made by a parent or guardian on behalf of a minor person.

A complaint may be made to the Title IX Coordinator in person, by telephone, by mail, or by electronic mail to:

Kyle Wilson
Title IX Coordinator
1600 Burrstone Rd.
Utica, NY 13502
315-792-3063
klwilson@utica.edu

If a reporting party/complainant declines to submit a complaint or does not wish to participate in the complaint and adjudication process, or the reporting party/complainant's identity is unknown, and the Title IX Coordinator determines there is sufficient cause to submit a complaint, the Title IX Coordinator may submit a complaint. In such cases, the Title IX Coordinator is not considered to be a reporting party/complainant or other party under this policy; the reporting party/complainant remains the person who allegedly experienced the Prohibited Conduct.

Dismissal of Complaint/Allegations:

The University may dismiss a complaint, or specific allegations within the complaint, under the following circumstances:

- the University is unable to identify the responding party after taking reasonable steps to do so.

- the responding party is not participating in the University's education program or activity and is not employed by the University.
- the reporting party/complainant voluntarily withdraws any or all of the allegations in the complaint in writing, the Title IX Coordinator declines to initiate a complaint, and the Title IX Coordinator determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not be covered by this policy: or
- The Title IX Coordinator determines that the conduct alleged in the complaint, even if proven, would not constitute a violation of this policy.

If the University dismisses the complaint in whole or in part, the University will inform both parties (except if the dismissal occurs before the responding party has been notified of the allegations, in which case the Title IX Coordinator will provide notice only to the reporting party/complainant) of the decision, the reason for the action, and whether the University intends to proceed under this policy or another University policy. Any decision to dismiss a complaint or allegation pursuant to this section is immediately appealable pursuant to the appeal procedures set forth in this policy.

Supportive Measures: Once a report is made under this policy, the reporting party will be contacted by the Title IX Coordinator and offered supportive measures, as defined above. A report that triggers supportive measures need not be a complaint, and it may be made by a third party (i.e., someone other than the person allegedly subjected to misconduct). Once the responding party is informed of a report or a complaint, the responding party will be contacted by the Title IX Coordinator and offered supportive measures. Supportive measures are intended to restore or preserve, to the extent practicable, equal access to the University's educational programs and activities and protect the safety of all parties without unreasonably burdening any other party or parties. As required by federal regulation, these supportive measures must not be imposed for punitive or disciplinary reasons and are offered without fee or charge. The Title IX Coordinator is responsible for coordinating the implementation of supportive measures, including coordinating with the various University departments and offices that may be involved.

If a party's request for a supportive measure is denied, the party will be afforded an opportunity to have the denial promptly reviewed to assess whether the supportive measure is reasonable under the circumstances. In addition, each party will, upon request, be afforded the opportunity for a prompt review of the need for supportive measures, including the potential modification of these measures, to the extent that the party is affected by the measure(s) being reviewed. The request for review of the denial of, or the need for or details of, supportive measures should be made to either the Vice President of Enrollment and the Student Experience or Director of Human Resources, depending on the status of the parties involved, and may be made at any time. Each party will be allowed to submit evidence in support of, or in opposition to, the request to the extent the supportive measures under review affect that party. The Vice President of Enrollment and the Student Experience or Director of Human Resources will advise the parties of the result of the review. This determination is not subject to further review absent changed circumstances.

Emergency Removal

The University may need to undertake emergency removal of a student in order to protect the safety of its community, which may include contacting local law enforcement to address imminent safety concerns. Emergency removal is not a substitute for reaching a determination as to a student responding party's responsibility for misconduct allegations; rather, emergency removal is for the purpose of addressing imminent and serious threats posed to any person's health or safety, which may arise out of the allegations of misconduct. Emergency removal may be total (i.e., the student is suspended from the University) or partial (e.g., the student is suspended from being present on campus) at the discretion of the University based on the circumstances.

Prior to removing a student responding party through the emergency removal process, the University will undertake an individualized safety and risk analysis. If the individualized safety and risk analysis determines that an imminent and serious threat to the health or safety of any student or other individual arising from the allegations of misconduct justifies removal, then a student responding party will be removed. This is the case regardless of the severity of the allegations and regardless of whether a formal complaint was filed.

In the event a determination is made to effectuate an emergency removal, the Title IX Coordinator will provide written notice of the emergency removal to both the reporting party/complainant (if any) and responding party. This notice will contain: (1) the date the removal is set to begin, (2) the reason for the emergency removal, (3) the consequences of non-compliance, and (4) how to appeal the decision. If a student responding party disagrees with the decision to be removed, they may appeal the decision in writing to the Associate Director of Campus Safety within ten (10) days of receiving the notice of removal. The burden of proof is on the student responding party to show that the removal decision was incorrect. The emergency removal will remain in effect while the appeal is considered.

The emergency removal process applies only to student responding parties. Employee responding parties are not subject to this process and may be placed on administrative leave pursuant to the University's applicable policies and/or collective bargaining agreements during any process under this policy.

Investigations: If an investigation is to be conducted pursuant to this policy, the Title IX Coordinator will send a written Notice of Allegations to both the reporting party and the responding party that will include:

- Notice of the University's Sex Discrimination, Sex-Based Harassment and Sexual Misconduct Policy and a hyperlink to a copy of the policy.
- To the extent known, the identities of the involved parties; the date, time, location and factual allegations concerning the alleged violation; the policy provisions allegedly violated; a description of the investigation and adjudication process; and potential sanctions.
- A statement that the responding party is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney.

- A statement that the parties may inspect and review evidence obtained as part of the investigation in accordance with this policy.
- Notice that knowingly making false statements or knowingly submitting false information is prohibited under University policies; and
- A statement about the University's policy on retaliation.

To the extent the Title IX Coordinator has reasonable concerns for the safety of any person as a result of providing the Notice of Allegations, the Title IX Coordinator may reasonably delay providing the Notice in order to address the safety concerns appropriately. Reasonable concerns must be based on an individualized safety and risk analysis and not on mere speculation or stereotypes. In any event, the parties will receive the Notice of Allegations with sufficient time to prepare a response before any initial interview.

If, in the course of an investigation, the University decides to investigate allegations that are not included in the Notice of Allegations, the University will notify the parties whose identities are known of the additional allegations by their institutional email accounts or other reasonable means. The parties will be provided sufficient time to review the additional allegations to prepare a response before any initial interview regarding those additional allegations.

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

The Title IX Coordinator will assign investigators (usually no more than two) to interview involved parties for the purposes of gathering facts and evidence. The reporting party and responding party will be provided with notice of the name(s) of the appointed investigator(s) (typically in the Notice of Allegations) and an opportunity of not more than three (3) days after the notice to raise an objection to the investigator(s) based on any alleged conflict of interest known to the party. If an objection is raised, the Title IX Coordinator will determine whether a conflict of interest in fact exists and necessitates the replacement of the investigator(s). The investigator(s) will provide written notice to any individual who is asked to participate in an investigatory interview, including the reporting party and the responding party. The investigator will communicate the date, time and location of the interview in the notice. The investigator will also let the reporting party and responding party know that they may bring an advisor of choice (who may or may not be an attorney) to the investigatory interview, but only for supportive purposes. The advisor will not be allowed to interject without permission from both the investigator and the interviewee. Witnesses are not permitted to bring advisors to investigative interviews.

If either party chooses not to participate in the investigation interview in person and instead wishes to submit written material and evidence (in lieu of an interview), that party will not be allowed to submit additional evidence once the hearing begins absent extraordinary circumstances as determined by the decision-maker. A party who chooses not to participate in the investigation interview will still have a right to review evidence (see below) as outlined in this policy.

The University's investigation may be temporarily delayed where there is a concurrent law enforcement investigation if necessary to avoid interference with the law enforcement investigation; such a delay will

not exceed ten (10) days unless a longer time period is requested and justified by the law enforcement agency.

Evidence Collection and Review: Both the reporting party and responding party have the right to present relevant, not impermissible inculpatory and exculpatory evidence (see definitions). For purposes of this policy, the following types of evidence will be excluded as impermissible (even if otherwise relevant):

- evidence that is protected under a privilege as recognized by federal or state law or evidence provided to a Confidential Resource, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality.
- a party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the University obtains that party's or witness's voluntary, written consent for use in the investigation and adjudication process; and
- evidence that relates to the reporting party's sexual interests or prior sexual conduct, unless evidence about the prior sexual conduct is offered to prove that someone other than the responding party committed the alleged conduct or is evidence about specific incidents of the reporting party's prior sexual conduct with the responding party that is offered to prove consent.

Each party also has the right to discuss allegations and gather evidence; however, at all times, the burden of gathering evidence remains with the University. The investigator(s) may decline to interview any witness or to gather information the investigators find to be not relevant or impermissible. The investigator(s) will determine the order and method of investigation.

No unauthorized audio or video recording of any kind is permitted during investigation meetings or interviews. If the investigator(s) elect to audio and/or video record interviews, all parties involved in the meeting or interview will be made aware that audio and/or video recording is occurring.

The investigator(s) will provide the reporting party, responding party, and their advisors an equal opportunity to inspect and review any relevant and not impermissible evidence that is gathered in the investigation, regardless of whether the information will be relied on in reaching a determination. The evidence will be sent in electronic format or hard copy, or made available through an electronic file sharing platform, subject to redaction permitted and/or required by law. The parties will be provided with at least 10 business days to inspect, review, and respond to the evidence and submit a written response, which the investigator(s) will consider prior to completion of the investigative report. Based on the parties' written responses the investigator(s) will determine if additional investigation is necessary (and, if so, will complete any additional investigative steps), and will incorporate appropriate elements of the responses and any additional relevant and not impermissible evidence into the report.

Investigative Reports: Once the evidence is gathered and made available for review as described above, the investigator(s) will prepare an investigative report that fairly summarizes the relevant and not impermissible evidence. The report will be provided to the reporting party, the responding party, their respective advisors in electronic format or hard copy, or made available through an electronic file sharing platform, and to the Title IX Coordinator. The reporting party and responding party will have 10 business days to review and, if desired, to respond to the report. After 10 business days have passed, or after having

heard from both parties, whichever comes first, the Title IX Coordinator will provide the report to the decision-maker (see definitions) to begin the hearing process.

In any case where a student is a reporting party or responding party, both the reporting party and responding party will be permitted to submit a written impact statement to the Title IX Coordinator for consideration in the event of a finding of responsibility for violation of this policy and the determination of an appropriate sanction(s). The Title IX Coordinator will provide copies of any such written impact statements to the decision-maker for making a determination regarding appropriate sanctions if (but only if) the responding party is found responsible for one or more allegations.

Hearings: Once the decision-maker receives the investigative report, a live hearing will be scheduled not less than 10 days after the parties have been provided access to the report, for the purpose of determining whether the responding party is responsible or not responsible for the allegation(s).

The decision-maker or the Title IX Coordinator will send notice of the hearing to the reporting party/complainant and responding party, and their advisors, with the date, time and location of the hearing, and how to challenge participation by any decision-maker for bias or conflict of interest. Bias or conflict of interest will be judged by an objective standard (whether a reasonable person would conclude the decision-maker is biased or has a conflict of interest).

Participants in the hearing will include the decision-maker, the reporting party/complainant and the responding party, their respective advisors, the investigator(s) who conducted the investigation, and witnesses (solely during their own testimony). Hearings are private. Observers or additional support personnel, other than the parties' advisors, are not allowed unless deemed necessary by the Title IX Coordinator for purposes such as accommodation of a disability. Cell phones and recording devices may not be used by the parties or their advisors in the hearing room(s).

Hearings may be conducted with all parties physically present in the same location or, at the Title IX Coordinator's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling the decision-maker and the parties to simultaneously see and hear any party or witness while speaking. If either party so requests, the hearing will be conducted with the parties located in separate rooms using technology as described in the preceding sentence.

The Title IX Coordinator may postpone the hearing for good cause as determined by the Title IX Coordinator. Good cause may include, without limitation, unavailability of one or more participants due to unanticipated events or circumstances, the timing of academic breaks or holidays, or other extenuating circumstances.

Procedural Matters

The decision-maker is in charge of organizing the presentation of information to be considered at the hearing. Generally, the hearing will proceed in the following order:

10. Opportunity for opening statement by the reporting party/complainant

11. Opportunity for opening statement by the responding party

12. If requested by the decision-maker, a summary of the results of the investigation by the investigator(s)

13. Questions for the investigator(s) by the decision-maker and, if desired, on behalf of the reporting party/complainant and the responding party (as described below)

14. Questions for the reporting party/complainant by the decision-maker and, if desired, on behalf of the responding party (as described below)

15. Questions for the responding party by the decision-maker and, if desired, on behalf of the reporting party/complainant (as described below)

16. Questions for each witness by the decision-maker and, if desired, on behalf of the reporting party/complainant and the responding party (as described below)

17. Opportunity for closing statement by the reporting party/complainant

18. Opportunity for closing statement by the responding party

Formal rules of evidence will not apply. Except as otherwise expressly prohibited by this policy, any information that the decision-maker determines is relevant and not impermissible may be considered, including hearsay, history and information indicating a pattern of behavior, and character evidence. Absent extraordinary circumstances as determined by the decision-maker, no party may seek to introduce at the hearing any evidence not previously made available for review by the parties, other than the investigative report itself and any responses to the investigative report submitted by the parties.

The decision-maker will address any concerns regarding the consideration of information prior to and/or during the hearing and may exclude irrelevant or impermissible information. Subject to the terms of this policy, the decision-maker will have discretionary authority to determine all questions of procedure, to determine whether particular questions, evidence or information will be accepted or considered, to call breaks or temporary adjournments of the hearing, to alter the order of the proceedings from that described above, and/or to recall parties or witnesses for additional questions as the decision-maker deems necessary or appropriate. The decision-maker may impose additional ground rules as decision-maker may deem necessary or appropriate for the orderly and efficient conduct of the hearing, which will apply equally to both parties.

Advisors

The reporting party/complainant and the responding party may each have present with them during the hearing an advisor of their choice (at the party's expense, if the advisor is a paid advisor). If a party does not have an advisor present at the hearing, the University will provide, without fee or charge to that party, an advisor of the University's choice upon request. The advisor's role is limited to consulting with their advisee, and the advisor may not present evidence, address the decision-maker during the hearing, question the other party or witnesses, object to any aspect of the proceeding, or disrupt the hearing in any way, and any consultation with the advisee while the hearing is in progress must be done in a quiet non-disruptive manner or in writing. The advisor may also consult with the advisee

verbally outside the hearing during breaks, when such breaks are granted by the decision-maker. If the decision-maker determines that an advisor is not adhering to these or other ground rules, the advisor may be required to leave the hearing, and the hearing will proceed without an opportunity for the party to obtain a replacement advisor; provided, however, that the University will assign an advisor of the University's choosing upon request, without charge.

Witnesses are not permitted to bring an advisor or other person to the hearing, absent an approved disability accommodation. The decision-maker may be advised by and/or consult with the University's legal counsel as the decision-maker deems necessary or appropriate.

Questioning Procedures

The parties are not permitted to conduct direct questioning of the other party or witnesses during the hearing. The decision-maker will allow each party to propose questions that the party wants asked of the other party or any witness. The parties must submit their initial set of proposed questions to the decision-maker at least 2 days prior to the hearing, so as to allow the decision-maker to assess whether they will be asked as described below.

The decision-maker will determine whether a proposed question is relevant and not impermissible before the question is posed and will pose any relevant and not impermissible question to the other party or witness on the questioning party's behalf. For purposes of the preceding sentence, following types of questions are impermissible even if otherwise relevant:

- questions regarding information that is protected under a privilege as recognized by federal or state law or information provided to a Confidential Resource, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality.

- questions regarding a party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the University obtains that party's or witness's voluntary, written consent for use in this process; and

- questions that relate to the reporting party's sexual interests or prior sexual conduct, unless evidence about the prior sexual conduct is offered to prove that someone other than the responding party committed the alleged conduct or is evidence about specific incidents of the reporting party's prior sexual conduct with the responding party that is offered to prove consent.

In the event the decision-maker excludes a question as not relevant or impermissible, the decision-maker will explain the decision prior to or at the hearing. Questions that are unclear or harassing of the party or witness being questioned will not be permitted. The decision-maker will give the party proposing the question an opportunity to clarify or revise a relevant and not impermissible question that the decision-maker determines is unclear or harassing. If the party sufficiently clarifies or revises the question, the question will be asked. During the hearing, the decision-maker will afford the parties breaks to consult with their respective advisors for the purpose of formulating and submitting in writing desired questions (if not previously submitted) and follow-up questions, which will be

reviewed, assessed and (if appropriate) posed by the decision-maker to the other party or witness using the standards and process described above.

If a party or witness does not submit to questioning on behalf of a party at the hearing, the decision-maker may nevertheless rely on statements of that party or witness, during the hearing or otherwise, in reaching a determination regarding responsibility, but may also determine what (if any) significance to afford those statements in view of the lack of questioning (for example, the decision-maker may determine whether the statements are sufficiently reliable in the absence of questioning). The decision-maker will not, however, draw an inference as to responsibility based solely on a party's or witness's absence from the hearing or refusal to answer questions posed on behalf of a party.

Hearing Determinations

Following conclusion of the hearing, the decision-maker will deliberate and render a determination as to whether the responding party is responsible or not responsible for the alleged violation(s). The decision-maker will use "preponderance of the evidence" as the standard of proof to determine whether each alleged violation of the policy occurred.

If the decision-maker determines that the responding party is responsible for one or more violations, any personal impact statements submitted by the parties will be made available to the decision-maker for consideration in determining sanctions. In addition to the impact statement(s), if any, factors considered when determining sanctions may include:

- the nature and severity of, and circumstances surrounding, the violation(s).
- the responding party's state of mind at the time of the violation(s) (intentional, knowing, bias-motivated, reckless, negligent, etc.).
- the responding party's previous disciplinary history.
- the need for sanctions to bring an end to the conduct; and/or to prevent the future recurrence of similar conduct.
- the need to remedy the effects of the conduct on the reporting party/complainant and/or the community.
- the impact of potential sanctions on the responding party.
- sanctions imposed by the University in other matters involving comparable conduct; and
- any other lawful factors deemed relevant by the decision-maker.

Students who are found responsible will be issued disciplinary action in accordance with Utica University's Code of Student Conduct and its corresponding Point System. Faculty and other collective bargaining unit members who are found responsible will be issued disciplinary action in accordance with the current Collective Bargaining Agreement between Utica University and AAUP-Utica. Staff who are found responsible will be issued discipline in accordance with the current Utica University Employee Handbook.

Notice of Outcome

The decision-maker will issue a written determination including the following information:

- A description of the allegations that were adjudicated.

- A description of the policies and procedures used to evaluate the allegations.
- The decision-maker's evaluation of the relevant and not impermissible evidence and determination whether prohibited conduct occurred.
- Conclusions regarding the application of the policy to the facts.
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions to be imposed on the responding party, and whether remedies designed to restore or preserve equal access to the University's educational programs or activities will be provided to the reporting party/complainant; and
- The procedures and permissible bases for the reporting party/complainant and responding party to appeal.

The decision-maker will provide the written determination to the parties simultaneously.

Appeals

In all cases (except when a vendor, visitor, or other non-community member does not have a right to appeal), either party may appeal (1) the decision-maker's decision; and/or (2) the University's dismissal of a complaint or any allegations therein by filing a written appeal with the Title IX Coordinator within three (3) business days of the decision or dismissal. Where the responding party is a student, the appeal will be considered by an appeals panel comprised of three individuals from the University community who are appointed to serve as an appeals board. Where the responding party is a faculty member, the appeal will be considered by the Provost. Where the responding party is a staff member, the appeal will be considered by the staff member's area vice president.

The grounds for appeal are limited to the following:

- A procedural irregularity that affected the determination or dismissal.
- Newly discovered evidence that was not reasonably available at the time the determination or dismissal was made that could affect the determination or dismissal; or
- The Title IX Coordinator, investigator(s), or decision-maker had a conflict of interest or bias for or against reporting parties/complainants or respondents generally or the individual reporting party/complainant or respondent in the case that affected the determination regarding responsibility or dismissal; or
- A sanction is inconsistent with the severity of the violation or otherwise inappropriate.

In the event that an appeal is submitted by a party, the other party will be provided a copy of the appeal and an opportunity to submit a response. Sanctions are stayed pending the outcome of the appeal.

The individual or body considering an appeal may take any action deemed appropriate, including the following actions:

- Uphold the original decision as to responsibility, sanction, or dismissal.

- Alter the decision as to responsibility, sanction or dismissal.

- Remand the matter to the decision-maker. The individual or body considering an appeal may (but is not required to) take this action when there is a procedural irregularity that could be corrected or for purposes of considering previously unavailable relevant and not impermissible evidence that could impact the decision-maker's determination; or

- Remand the matter to a new decision-maker not previously involved in the matter. This will typically be done only in cases in which the individual or body considering an appeal has concluded that bias or a conflict of interest exists, or otherwise when, in its/their opinion, the matter would be best addressed by a newly constituted decision-maker.

The appeal decision will be provided to both parties in writing simultaneously and will be final, except to the extent that one or more parties seek review of proceedings ordered on remand.

Vendor, Visitor, or Other Non-Community Member

In cases involving allegations against a non-community member (e.g., a vendor, visitor, contractor, parent, etc.), the case will be referred to the Office of Human Resources. The Office of Human Resources will work with the appropriate parties (such as the Associate Director of Campus Safety) and make a final determination regarding remedies, including, if appropriate, the imposition of action such as banning the non-community member from University property or other appropriate responsive measures.

A non-community member may make a report that a University community member has violated this policy. A non-community member's complaint will be processed in accordance with the applicable disciplinary procedures listed above.

Training

All University employees will receive annual training on

- The University's obligation to address Sex Discrimination in its education programs or activities.
- The scope of conduct that constitutes Sex Discrimination under Title IX and this policy, including the definition of Sex-Based Harassment; and
- All applicable notification and information requirements with respect to reports of Sex Discrimination and when an employee is informed that the student is pregnant or experiencing a pregnancy related event.

The Title IX Coordinator, Deputy Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process or has the authority to modify or terminate supportive measures, will receive training on the following aspects of the policy:

- The University's obligations to respond to Sex Discrimination under Title IX and other relevant laws.

- The University's formal and informal resolution processes.
- The meaning and application of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance under in the formal resolution process.
- The effects of trauma.
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias; and
- The rights of the responding party (including the right to a presumption that the responding party is "not responsible" unless and until a finding of responsibility is made).

Decision-makers will also receive training on:

- any technology to be used at a live hearing, and
- issues of relevance and impermissibility of questions and evidence, including when questions and evidence about the reporting party's sexual predisposition or prior sexual behavior are not permissible.

Individuals who facilitate informal resolution processes will also receive training on:

- the rules and practices associated with the University's informal resolution process; and
- on how to serve impartially, including by avoiding conflicts of interest and bias.

Investigators will also receive training on:

- conducting investigations of Prohibited Conduct, and
- issues of relevance and how to create an investigative report that fairly summarizes relevant evidence.

Law Enforcement and Criminal Charges

A victim of a crime, including sexual misconduct, is encouraged, but is not required, to report the incident to law enforcement and pursue criminal charges. Members of the University community who want to pursue criminal charges may contact the Student Counseling Center, Division of Enrollment and the Student Experience, the Office of Campus Safety, or the YWCA/local crisis center for assistance in making a report of a crime to law enforcement or may contact law enforcement authorities directly.

The criminal process and the University's investigatory/disciplinary processes are not mutually exclusive or dependent on each other, meaning that a person may pursue either a criminal complaint or internal complaint with the University, both, or neither. Any internal University investigation and/or hearing process will be conducted concurrently with any criminal justice investigation and proceeding that may be pending. Temporary delays in the University's internal processes may be requested by local law enforcement authorities for the purpose of evidence gathering. Any temporary delay shall

not last more than ten (10) days, except when local law enforcement authorities specifically request and justify a longer delay. The University will cooperate with any criminal proceedings as required or permitted by law.

In criminal cases, including non-consensual sex offenses, the preservation of evidence is critical and must be done properly and promptly. Local law enforcement agencies can assist in filing a criminal complaint and in securing appropriate examination, including by a sexual assault nurse examiner. The New York State Police Sexual Assault Hotline, which can be reached at 1-844-845-7269, may also be of assistance in reporting an incident to law enforcement. Additionally, orders of protection and other forms of legal protection may be available to individuals who have experienced or are threatened with violence. In appropriate circumstances, an order of protection may be available that restricts the offender's right to enter University property, and the University will abide by a lawfully issued order of protection. Utica University officials will, upon request, provide reasonable assistance to any member of the University community in obtaining an order of protection or, if outside New York State, an equivalent protective or restraining order.

Upon receipt of an order of protection (or equivalent order) by the University, University officials will also assist by providing all applicable parties with a copy of the order. Those parties will be given an opportunity to meet or speak with a Utica University representative, or other appropriate individual, who can explain the order and answer questions about it, including information from the order about the other person's responsibility to stay away from the protected person or persons. The University official, or other appropriate individual, will also provide an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and emergency removal, and will assist in contacting local law enforcement regarding alleged violations of such an order.

Amnesty

The health and safety of every student at Utica University is of utmost importance. Utica University realizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault, occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Utica

University strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to Utica University officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to Utica University officials or law enforcement will not be subject to the University's Student Code of Conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

Non-Retaliation

Retaliation against any person involved in an investigation, proceeding or hearing under this policy, including the reporting party, responding party, witnesses, or University personnel, is strictly prohibited. This includes retaliation from a third party on behalf of the reporting party, responding

party, witnesses, or University personnel. The University defines retaliation as intimidation, threats, coercion, or discrimination against any person by for the purpose of interfering with any right or privilege secured by Title IX, its implementing regulations or this policy, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner (as a reporting party, responding party, witness or otherwise) in an investigation, proceeding, or hearing under this policy, including in an informal resolution process. Reports of retaliation should be directed to the Title IX Coordinator or Deputy Title IX Coordinators, who will then determine the most appropriate course of action.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance process under this policy does not constitute retaliation. At the same time, a determination contrary to a statement, alone, is not enough to conclude that any party made a false statement in bad faith.

Records Retention

Utica University will create and maintain for not less than seven years the following records:

- Each investigation pursuant to this policy, including any determination regarding responsibility and any audio or audiovisual recording or transcript made in connection with a formal resolution, any disciplinary sanctions imposed on the responding party, and any remedies provided to the reporting party or other affected individuals designed to restore or preserve equal access to the University's education program or activity.
- Any appeal and the result therefrom; and
- Any informal resolution and the result therefrom.

Utica University will also keep for not less than seven years records regarding the response to every report of Prohibited Conduct of which it becomes aware, even if no complaint was filed, including documentation of any supportive measures offered and implemented. If the University does not provide a party with requested supportive measures, then the University will document the reasons for that decision. In each instance, the University will document the reason for actions taken or not taken, and document that it has taken measures designed to restore or preserve equal access to the University's education program or activity.

The University will also maintain for not less than seven years records of all materials used to train the Title IX Coordinator, Deputy Title IX Coordinators, investigators, decision-makers, persons who facilitate an informal resolution process, and persons responsible for considering appeals. The University will make these training materials available for inspection by members of the public on request.

Clery Act Compliance and Federal Statistical Reporting Obligations

Certain campus officials have a duty to report incidents of sexual assault, domestic violence, dating violence, and stalking for federal statistical reporting purposes under the Clery Act. All personally

identifiable information is kept confidential, but statistical information must be passed along to Director of Student Conduct and Community Standards regarding the type of incident and its general location (on or off-campus, in the surrounding area) for publication in the University's Annual Security Report (ASR). This report helps to provide the University community with a clear picture of the extent and nature of campus crime.

In the case of a reported situation reflecting a serious and continuing threat to the University community, the University will issue a timely warning to the University community. In such circumstances, the name of the alleged perpetrator may be disclosed to the community, but the name of the victim/reporting party will not be disclosed.

Transcript Notations

For those crimes of violence that the University is required by federal law to include in its Annual Security Report, the transcripts of students found responsible after a hearing and appeal, if any, shall include the following notation (as applicable):

- Withdrew with conduct charges pending.
- Suspended after a finding of responsibility for a code of conduct violation; or
- Expelled after a finding of responsibility for a code of conduct violation.

A student may request that the University remove a transcript notation for suspension, no earlier than one year after the conclusion of the suspension. The University will review the request and decide, in its sole discretion, whether the notation will be removed. Transcript notations for expulsion shall not be removed.

Delegation of Authority and University Counsel; Use of External Resources

Any University administrator or official responsible for performing a responsibility under this policy may delegate their authority, or the Title IX Coordinator may require reassignment of authority, to any other appropriate University official. Delegation of authority may be necessary to avoid conflicts of interest or where time constraints or other obligations prevent a University official named in this policy from fulfilling the person's designated role. The University may also utilize appropriately trained external personnel for any role under this policy as it may deem necessary or appropriate. Any University administrator or official functioning under this policy may seek the advice and counsel of the Title IX Coordinator and/or the University's legal counsel at any time.

Coordination with Other Policies

A particular situation may potentially invoke one or more university policies or processes. The University reserves the right to determine the most applicable policy or process and to utilize that policy or process. Without limiting the foregoing, if determined appropriate by the Title IX

Coordinator, the processes described in this policy may be used to respond to, investigate and adjudicate conduct allegedly violating other policies if the alleged conduct is related to or arises out of the same facts, circumstances or incidents as alleged Prohibited Conduct to be addressed pursuant to this policy.

DISCRETIONARY AUTHORITY; CHANGE IN APPLICABLE LAW

The Title IX Coordinator shall have discretionary authority to construe and interpret this policy, and to determine the meaning of any disputed or uncertain provisions. In the course of any process under this policy, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party. The Title IX Coordinator may also vary procedures materially with notice upon determining that changes to law or regulation, or interpretations thereof, require policy or procedural alterations not reflected in this policy. If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this policy, this policy will be construed to comply with the applicable government laws, regulations or holdings.

RESPONSIBILITY:

The University's Title IX Coordinator is responsible for ensuring compliance with this policy. Any questions or concerns about the administration of this policy should be directed to the Title IX Coordinator, Kyle Wilson, at 315-792-3063 or klwilson@utica.edu. Inquiries and complaints may be made externally to:

U.S. Department of Education, Office for Civil Rights
400 Maryland Avenue, SW
Washington, DC 20202-1100
Customer Service Hotline #: 800-421-3481
Facsimile: 202-453-6012 TDD#: 877-521-2172
E-mail: OCR@ed.gov
Web: http://www.ed.gov/ocr

ENFORCEMENT:

Enforcement of Utica University policies is the responsibility of the office or offices listed in the

"Resources/Questions" section of each policy. The responsible office will contact the appropriate authority regarding faculty or staff members, students, vendors, or visitors who violate policies.

Utica University acknowledges that University policies may not anticipate every possible issue that may arise. The University therefore reserves the right to make reasonable and relevant decisions regarding the enforcement of this policy. All such decisions must be approved by an officer of the University (i.e. President, Provost).

RESOURCES/QUESTIONS:

For questions regarding the implementation and interpretation of this policy, contact Kyle Wilson, Title IX Coordinator, at 315-792-3063 or klwilson@utica.edu

Please note that other Utica University policies may apply or be related to this policy. To search for related policies, use the Keyword Search function of the online policy manual.

Appendix G: Pregnancy Policy (Vacated Policy)

Policy for Responding to and Accommodating Pregnancy and Related Conditions

(Effective August 1, 2024 – Vacated January 1, 2025)

Non-Discrimination Statement

Utica University is committed to maintaining an accessible and supportive environment for all students and employees who experience pregnancy or related conditions and ensuring that individuals experiencing pregnancy or related conditions receive the necessary modifications to participate fully and equally in all programs and activities. This policy applies to all pregnant persons regardless of gender identity or expression. The University does not discriminate against any student, applicant for admission, applicant for employment, or employee on the basis of current, potential, or past pregnancy or related conditions as mandated by Title IX of the Education Amendments of 1972 and the New York State Human Rights Law.

Definitions

- Familial Status: The configuration of one's family or one's role in a family.
- Marital Status: The state of being married or unmarried.
- Parental Status: The status of a person who is a parent, legal custodian, guardian, or in loco parentis of a person under 18 or over 18 if incapable of self-care due to disability.
- Pregnancy and Related Conditions: Includes pregnancy, childbirth, termination of pregnancy, lactation, and related medical conditions, and recovery from any of the foregoing.
- Reasonable Modifications: Modifications to policies, practices, or procedures that do not fundamentally alter the University's education programs or activities.

Information Sharing Requirements

Any University employee aware of a student's pregnancy or related condition must provide the student with the Title IX Coordinator's contact information and inform them that the Title IX Coordinator can help prevent discrimination and ensure equal access. If the employee believes the Coordinator is already aware, they are not required to provide this information.

Upon notification of a student's pregnancy or related condition, the Title IX Coordinator will contact the student to inform them of their rights and the process for filing complaints related to discrimination, harassment, or retaliation.

Reasonable Modifications for Students

Students experiencing pregnancy and related conditions are entitled to Reasonable Modifications to ensure equal access to education programs and activities. These may include changes to schedules, assignments, and course requirements.

Students seeking Reasonable Modifications must contact the Title IX Coordinator to discuss their needs. Retroactive modifications may be available in some circumstances.

Modifications will be determined based on individual needs and may include alternative paths to completion for clinical rotations, performances, labs, and group work. In progressive curricular and cohort-model programs, medically necessary leaves may allow students to shift course order or join subsequent cohorts.

Supporting documentation may be required when necessary to determine appropriate modifications. Information about modifications will be shared with faculty and staff only as necessary.

Certification to Participate

Health and safety risks related to participation in specific activities will be communicated to all students. A student cannot be required to provide health certification unless the same certification is required of all students, and it is necessary for participation.

Rights of Employees and Student-Employees to Express Breast Milk

Employees, including student-employees, have the right to express breast milk in the workplace. The University will provide 30 minutes of paid break time as needed for up to three years following childbirth. Employees must provide written notice of their need for breast milk expression to their direct supervisor. Additional unpaid time beyond the 30 minutes may be taken using existing paid break or mealtime.

The University will not deduct an employee's paid break time for breast milk expression from their regular paid break or mealtime. Employees can choose to take breast milk expression breaks before or after their regularly scheduled paid break or meal periods.

Lactation Space Access

The University provides students and employees with access to functional, appropriate, and safe lactation spaces. These spaces are regularly cleaned, shielded from view, and free from intrusion.

The University will provide employees with a private room or other location in close proximity to the employee's work area to express milk. If the University cannot provide a dedicated lactation room, a temporarily vacant room may be used instead. The room or place provided by the University cannot be open to other students, employees, customers, or members of the public while an individual is pumping breast milk. It should have a door with a functional lock, or in the case of a cubicle, a sign warning that the location is in use and not accessible to others. In accordance with State law, cubicles can only be used if they have walls that are seven feet tall. The designated area must include a chair, working surface, nearby access to clean running water, good natural or artificial light, and an electrical outlet.

Employees wishing to request a lactation room must provide reasonable advance notice and submit a written request to The Office of Human Resources. The University will respond within five business days and notify all employees in writing when a room is designated for breast milk expression.

If an employee's request for a lactation room poses an undue hardship, The University will engage in a cooperative dialogue with the employee.

Leaves of Absence

- Students: Students may take a voluntary leave of absence for a reasonable time deemed medically necessary due to pregnancy, childbirth, adoption, or foster care placement. The leave term may be extended for extenuating circumstances or medical necessity. Students can elect to keep their health insurance coverage and continue residing in University housing, subject to applicable fees and housing limitations.

- The University will ensure students return to the same academic progress position, including access to the same or equivalent course catalog. Scholarship and funding continuation will depend on the student's registration status and funding program policies. The University will advocate for students with financial aid agencies and external scholarship providers if a leave affects eligibility.

- To initiate a leave of absence, students must contact the Title IX Coordinator at least 30 days prior or as soon as practicable. The Title IX Coordinator will assist with necessary paperwork.

- Employees: Information on employment leave is available in the Employee Handbook. Employees, including student-employees, not eligible for leave under other policies may qualify for leave under Title IX. Pregnancy and related conditions will justify leave without pay for a reasonable period. Employees taking Title IX leave must be reinstated to their original or comparable position without negative effects on employment privileges or rights.

Student Parents

Students with child caregiving responsibilities may request academic modifications for up to four months from the time the child enters the home. Extensions may be granted for medical necessity or extraordinary caregiving responsibilities.

During the modification period, academic requirements may be adjusted, and deadlines postponed as appropriate, in collaboration with relevant academic advisors and faculty. If authorized, students may reschedule assignments, lab hours or examinations, or reduce their course load. NOTE: Any modifications may impact financial aid eligibility. The University will advocate for students with financial aid agencies and external scholarship providers if a leave affects eligibility.

If caregiving students cannot obtain appropriate modifications, they should alert the Title IX Coordinator, who will facilitate needed accommodations and modifications.

In timed degree programs, students can request extensions of up to four months for preliminary and qualifying examinations and normative time to degree while in candidacy. Longer extensions may be granted in extenuating circumstances.

Students will remain registered and retain benefits during academic modifications.

Policy Dissemination and Training

This policy will be provided to all faculty and employees and posted on the University's website. New students will be educated about this policy.

Compliance and Monitoring

The University will monitor compliance with this policy and address any violations. The policy will be reviewed periodically to ensure that it meets legal requirements and effectively serves the community.

Appendix H: Title IX Policy (Vacated Policy)

Procedures for Complaints of Sex Discrimination, Sex-Based Harassment or Sexual Misconduct Between or Among Employees

(Effective August 1, 2024 – Vacated January 1, 2025)

I. OVERVIEW

Utica University is committed to providing a learning and working environment in which all interpersonal relationships are based upon respect and dignity. Therefore, in accordance with Title IX of the Education Amendments of 1972 (Title IX), the Clery Act, the Violence Against Women Act, and New York Education Law Article 129-B, Utica University will not tolerate sex-based harassment or sexual misconduct, which are forms of discrimination on the basis of sex, that include any of the following when they impact or have the potential to impact the educational or employment environment of any members of the University community: sex discrimination, sex-based harassment (including harassment based on gender identity, gender expression, or transgender status); sexual assault; domestic or dating violence; stalking; sexual exploitation; or other behavior prohibited by the *Utica University Sex Discrimination, Sex-Based Harassment and Sexual Misconduct Policy* (the "Policy").

The University's policy and processes relative to Prohibited Conduct, and the definition of Prohibited Conduct, are described generally in the Policy. As set forth in the Policy, the processes described in the Policy apply to any situation where a student is a reporting party/complainant or responding party (as defined therein), and the University reserves the right to apply the processes described in the Policy or another applicable University policy or process in other situations. The University has established these Procedures to investigate and adjudicate allegations of Prohibited Conduct that (a) the University determines fall within the scope of Title IX, and (b) do not involve a student as a reporting party/complainant or a responding party. Capitalized terms used but not defined in these Procedures shall have the meanings ascribed to them in the Policy.

These Procedures are effective on August 1, 2024, and will only apply to Prohibited Conduct that allegedly occurred on or after August 1, 2024. For Prohibited Conduct allegedly occurring prior to August 1, 2024, Utica University will respond and comply in accordance with the Title IX statute and regulations, and University policy, in place at the time that the alleged Prohibited Conduct occurred.

II. Jurisdiction of Procedures

As noted above, these Procedures apply to the investigation and adjudication of allegations of Prohibited Conduct that (a) the University determines fall within the scope of Title IX, and (b) do not involve a student as a reporting party/complainant or a responding party. All complaints meeting the requirements of the Policy ("Complaints") received or filed by the Title IX Coordinator will be reviewed by the Title IX Coordinator, who will determine whether the allegations meet the aforementioned criteria. The Title IX Coordinator may consult with other University officials for purposes of making this determination. If it is determined that the allegations fall within the scope of these Procedures, the Title IX Coordinator will:

- Offer, and if applicable provide or arrange for, resources and/or supportive measures in accordance with the Policy.
- Evaluate the Complaint for potential dismissal in accordance with the Policy.

- If appropriate offer, and if agreed upon by the parties and the Title IX Coordinator arrange for, an informal resolution process in accordance with the Policy; and

- If warranted refer the Complaint to the Office of Human Resources for investigation and adjudication in accordance with these Procedures.

To the extent information is discovered during the course of carrying out these Procedures suggesting that other University policies and/or procedures may have been violated, the University may either (a) address such potential violations in accordance with these Procedures, or (b) initiate a separate and independent investigation that is outside the scope of these Procedures that will be handled in accordance with applicable University policies and procedures. If it is determined that a Complaint does not fall within the jurisdiction of these Procedures, the University will consider whether an alternative University policy or procedure is more applicable.

III. PRINCIPLES FOR HANDLING COMPLAINTS UNDER TITLE IX AND THESE PROCEDURES

a. *Equitable Treatment:* The University will treat reporting parties/complainants and responding parties equitably.

b. *Conflicts and Bias:* The University requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against reporting parties/complainants or responding parties generally or an individual reporting party/complainant or responding party. Under these procedures, a decisionmaker may be the same person as the Title IX Coordinator or investigator, a supervisor or other appropriately trained University employee, or an appropriately trained external resource appointed by the Title IX Coordinator.

c. *Presumption:* The University presumes that the responding party is not responsible for the alleged Prohibited Conduct until a determination is made at the conclusion of the Procedures.

d. *Reasonably Prompt Timeframes:* The University will attempt to review, investigate, and adjudicate a Complaint within a reasonable time period, typically within no longer than 90 days after a Complaint is made, provided that the process may be extended with notification to the parties for good reason, including but not limited to the absence of party or a party's advisor (if applicable), or a witness; concurrent law enforcement activity; breaks in the academic schedule; or approved extensions. The timeframes of the major stages of the process are estimated as follows: Intake: 7 days; Investigation: 28 days; Evidence Review: 20 days; Adjudication: 21 days; and Appeal Process: 14 days. Both parties will be notified simultaneously if the University determines the process cannot be concluded within 7 days. The notification will outline the reasons for the extension.

e. *Privacy:* The University will take reasonable steps to protect the privacy of the parties and witnesses under these procedures in accordance with the Policy. This means that University officials and employees who cannot guarantee confidentiality will maintain privacy to the greatest extent possible, consistent with the University's obligations as an employer and the need for the Title IX Coordinator to identify and address patterns and systemic issues. The University will limit disclosures as much as practicable, even if the Title IX Coordinator determines that a request for confidentiality cannot be honored.

f. *Objectivity:* The University will objectively evaluate all evidence that is relevant and not impermissible, including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a reporting party/complainant, responding party, or witness.

g. *Advisors*: In cases involving allegations of Sexual Assault, Domestic Violence, Dating Violence or Stalking, the parties will be entitled to be accompanied by an Advisor of Choice (provided that any cost

associated with a paid advisor will be the responsibility of that party) to the extent required by the federal Violence Against Women Act of 1994 (VAWA).

h. *Impermissible Evidence:* The following types of evidence, and questions seeking that evidence, are impermissible (*i.e.*, will not be accessed or considered, except by the University to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are otherwise relevant:

- evidence that is protected under a privilege as recognized by federal or state law or evidence provided to a Confidential Resource, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality.

- a party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the University obtains that party's or witness's voluntary, written consent for use in the investigation and adjudication process; and

- evidence that relates to the reporting party/complainant's sexual interests or prior sexual conduct, unless evidence about the prior sexual conduct is offered to prove that someone other than the responding party committed the alleged conduct or is evidence about specific incidents of the alleged reporting party/complainant's prior sexual conduct with the responding party that is offered to prove consent.

IV. INVESTIGATION AND ADJUDICATION PROCEDURE FOR COMPLAINTS OF PROHIBITED CONDUCT FOR EMPLOYEES

A. Notice of Allegations

Upon initiation of the investigation and adjudication process under these Procedures, the Office of Human Resources will notify the parties, verbally or in writing, of the following:

- The applicable process under these Procedures.
- Sufficient information available at the time to allow the parties to respond to the allegations, including (to the extent known) the identities of the parties involved in the incident(s), the conduct alleged to constitute Prohibited Conduct, and the date(s) and location(s) of the alleged incident(s);
- That Retaliation is prohibited; and
- That the parties are entitled to an equal opportunity to access and respond to the relevant and not impermissible evidence, or an accurate description of such evidence, as provided in these Procedures.

If, in the course of an investigation, the University decides to investigate additional allegations of Prohibited Conduct by the responding party toward the reporting party/complainant that are not included in the notice provided, the University will notify the parties of the additional allegations.

B. Investigation

The University will provide for an adequate, reliable, and impartial investigation of Complaints. Investigations will be conducted by trained, impartial investigators. Investigators may be staff within the Office of Human Resources or other appropriately trained University personnel, or external investigators, as appointed by the Title IX Coordinator.

The burden is on the University—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether Prohibited Conduct occurred. The University will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible. The University will keep the investigation confidential to the extent reasonably possible and in keeping

with applicable law. All employees, including managers and supervisors, are required to cooperate with any internal investigation of Prohibited Conduct. The University will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible.

The University will provide each party with an equal opportunity to access the evidence that is relevant to the allegations of Prohibited Conduct and not otherwise impermissible, or a written or verbal description of such evidence, and to respond to such evidence before a determination is made. This description may, but is not required to, take the form of an Investigative Report that fairly summarizes the relevant and not impermissible evidence. If the University provides an Investigative Report or other description of the relevant and not impermissible evidence, it will provide the parties an equal opportunity to access the evidence upon request.

The University will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through these Procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the Complaint of Prohibited Conduct are authorized.

C. Questioning Parties and Witnesses to Aid in Evaluating Allegations and Assessing Credibility

When a party's or witness's credibility is in dispute, and such dispute is relevant to evaluating one or more allegations of Prohibited Conduct, the investigator and/or decisionmaker must have an opportunity to question such party or witness. If applicable, this will occur during individual meetings with a party or witness.

D. Determination Regarding Responsibility

Following an investigation and evaluation of all relevant and not impermissible evidence, the University will:

- Use the preponderance of the evidence standard of proof to determine whether Prohibited Conduct occurred. That means that cases shall be determined as to whether it is more likely than not that the responding party committed the alleged violation(s). This determination will be made by a staff member in the Office of Human Resources.
- Notify the parties in writing of the determination whether Prohibited Conduct occurred, including the rationale for such determination, and the procedures and permissible bases for the reporting party/complainant and responding party to appeal.
- Not impose discipline on a responding party unless there is a determination at the conclusion of the process that the responding party engaged in Prohibited Conduct; and
- Not discipline a party, witness, or others participating in these Procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether Prohibited Conduct occurred.

If there is a determination that Prohibited Conduct occurred, the Title IX Coordinator will, as appropriate:

- Coordinate the provision and implementation of remedies to a reporting party/complainant and other people the University identifies as having had equal access to the University's education program or activity limited or denied by Prohibited Conduct.
- Coordinate the imposition of any disciplinary sanctions on a responding party (which sanctions may be determined by the decision-maker or his/her/their designee (who may include, without limitation, the responding party's direct or indirect manager or supervisor, or other appropriate University personnel), including notification to the reporting party/complainant of any such disciplinary sanctions. Faculty and other collective bargaining unit members who are found responsible will be issued disciplinary action in accordance with the current Collective Bargaining Agreement between Utica University and AAUP-Utica. Staff who are found responsible will be issued discipline in accordance with the current Utica University Employee Handbook; and
- Take other appropriate prompt and effective steps to ensure that Prohibited Conduct does not continue or recur within the University's education program or activity.

E. Appeals of Dismissals and Determinations Regarding Responsibility

Appeals regarding the dismissal of a Complaint (or allegations within a Complaint) or the determination as to responsibility or sanctions shall be addressed in accordance with the Policy.

V. INTERPRETATION/OTHER ISSUES

Final interpretation of these Procedures is vested in the Title IX Coordinator, who will have discretion to construe any uncertain or disputed provisions. Issues that are not specifically addressed in this Policy may be resolved by the Title IX Coordinator in his/her/their discretion. Without limiting the generality of the foregoing, the Title IX Coordinator will have discretionary authority to interpret, construe and apply the terms of these Procedures in conjunction with the terms of the Policy, and to resolve any conflicts between such terms.

VI. DISABILITY ACCOMMODATIONS

These Procedures do not alter any institutional obligations under federal disability laws including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator at any point before or during the processes described above that do not fundamentally alter the applicable process(es). The Title IX Coordinator may consult with the Office of Accessibility Services & Accommodations to provide support to individuals with disabilities to determine how to comply with Section 504 of the Rehabilitation Act of 1973 (if applicable). The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the parties, even where the parties may be receiving accommodations in other institutional programs and activities.

VII. DELEGATION OF AUTHORITY AND USE OF EXTERNAL RESOURCES

Any University administrator or official whom these Procedures empower to act may request that the Title IX Coordinator delegate that authority to another appropriate University official, or the Title IX Coordinator in his/her/their own discretion may delegate that administrator's or official's authority to act to another appropriate person. The Title IX Coordinator may also delegate his/her/their responsibilities and/or authorities under these Procedures to any other appropriate official. Delegation of authority may be necessary to avoid conflicts of interest or where time constraints or other obligations prevent a University official named in these Procedures from fulfilling his/her/their designated role.

The University may utilize appropriately trained external personnel for any role under these Procedures as it may deem necessary or appropriate.

Any University administrator or official involved in implementing these Procedures may seek the advice of the University's legal counsel, to be coordinated through the Title IX Coordinator.

Appendix K: Edits for ASR

- November 12, 2026
    - The Executive Director of Facilities Planning & Operations position no longer exists at Utica University. This position title was changed to the Vice President for Enrollment and the Student Experience.