

STONY BROOK UNIVERSITY CODE OF STUDENT RESPONSIBILITY
SEXUAL MISCONDUCT POLICY AND PROCEDURE

Effective August 14, 2020

A. Executive Summary

Stony Brook University is committed to fostering diverse and inclusive educational and recreational environments that are safe and accessible for all students. Sexual misconduct that falls outside the scope of the University’s Title IX policy is prohibited as it violates this Code. This policy sets forth the manner in which an allegation of non-Title IX sexual misconduct, (which includes sexual harassment, non-consensual sexual contact, dating/domestic violence, stalking, and retaliation) will be addressed by the Office of Student Conduct and Community Standards in consultation with the Office of Equity and Access. The University takes all complaints of sexual misconduct very seriously and will respond to all allegations brought to its attention. A complaint may be filed with any of the following offices/Responsible Employees (also detailed in University Policy P106¹).

1. Office of Student Conduct and Community Standards (SCCS)

Location: Stony Brook Union, Suite 209 Phone Number: (631) 632-6705
Link: <http://studentaffairs.stonybrook.edu/ucs/index.html>

2. Office of Equity and Access (OEA) Location: Administration Building,

Location: Suite 201 Phone Number: (631) 632-6280
Link: <http://www.stonybrook.edu/oea>

3. University Police Department (UPD)

Location: Dutchess Hall on South Campus Phone: (631) 632-3333
Link: www.stonybrook.edu/police

4. Campus Sexual Assault Victims Unit

New York State Police Hotline: 1-844-845-7269

Certain faculty, administrators, and staff, known as “Responsible Employees” are any employee who has the authority to take action to redress sexual violence; who has been given the duty of reporting incidents of sexual violence or any other misconduct to the Office of Equity and Access or other

¹ <https://www.stonybrook.edu/commcms/oea/policies/sb-main-campus-lisvh/p106>

appropriate school designees; or whom a community member could reasonably believe has this authority or duty.

The following employees have reporting obligations and must report any incident of sexual misconduct they become aware of to the Office of Equity and Access:

Senior Administrators (Directors and above and in the hospital, Nurse Managers and above)

- Chairs of Academic Departments
- Supervisors
- Ombudsmen
- Assistant/Associate Directors in Campus Residences
- Residence Hall Directors
- Athletics Coaching Staff
- University Recognized Sports Club Coaches
- Academic Faculty Members
- Professional Staff In:
 - Academic Advisement
 - Career Services
 - Continuing Education
 - Financial Aid
 - Instructional Support
 - Athletics
 - Campus Residences
 - Student Activities or Student Affairs

Students who wish to find out about their options for reporting an incident and/or support resources should contact:

1. Stony Brook University Office of Equity and Access Webpage

The website provides you with information regarding resources and reporting options at Stony Brook University www.stonybrook.edu/oea

2. SUNY Sexual Assault & Violence Response (SAVR) Resources

The website provides you with information you can use to seek resources and support, and to report the crime to law enforcement and the campus. Information provided in over 120 languages.

3. Students who wish to speak confidentially about an incident should contact:

Center for Prevention and Outreach (CPO) Location: Stony Brook Union Suite 108 Phone: (631) 632-2748 Link: <http://studentaffairs.stonybrook.edu/cpo/>

4. Counseling and Psychological Services Location: Student Health Center – Second Floor Phone: (631) 632-6720

Link: <https://www.stonybrook.edu/caps/>

5. SAFE/SANE Program (Sexual Assault Forensic Examiner)

Location: University Hospital / Stony Brook Medicine Phone: VIBS Hotline (631) 630-3606

The SAFE/SANE at Stony Brook University Medical Center provides confidential medical care and a forensic exam by a Sexual Assault Nurse Examiner. SAFE/SANE services are available within 96 hours of the incident.

6. Student Health Service

Location: Student Health Center – First Floor Phone: (631) 632-6740

Link: <https://www.stonybrook.edu/commcms/studentaffairs/shs/>

Should a complaint result in a University administrative hearing, a Complainant has options regarding their level of involvement in the Review Panel Proceedings (detailed below), which includes but is not limited to: Acting as a Complainant and presenting their case to the Review Panel; or Acting as a Witness and providing statements to the Review Panel.

Regardless of which option(s) they choose, the Complainant may further choose to: have a partition between the Complainant and Respondent; teleconference/videoconference into the proceeding; or request another method of shielding.

The Complainant may also choose not to attend the hearing at all. The level of Complainant's involvement (presence or absence) at the Review Panel Proceedings will not factor into the Review Panel's determination.

B. Students' Bill of Rights

All students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the student conduct process and/or criminal justice process free from pressure by the University;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;

6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few University representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by the University, any student, the accused and or the Respondent, and/or their friends, family and acquaintances within the jurisdiction of the University;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or Respondent throughout the student conduct process including during all meetings and hearings related to such process; and
11. Exercise civil rights and practice of religion without interference by investigative, criminal justice, or student conduct process of the University.

The University has outlined in the following pages the sexual misconduct policy and the procedure for adjudicating any allegations when the accused (Respondent) is a student (as defined in Section I).

C. Sexual Misconduct Policy

1. Confidentiality

The Office of Student Conduct and Community Standards (SCCS) in collaboration with the Office of Equity and Access will conduct the investigation in a confidential manner to the extent practicable and/or permitted by law. The parties and witnesses are expected to cooperate fully in the investigation and maintain and preserve the confidentiality of the investigation. Hearings shall be closed to members of the campus community and to the public. Student conduct records, except as hereinafter provided, will be confidential in accordance with Federal and State laws relating to disclosure.

2. Privacy versus Confidentiality

Students who wish to speak confidentially about an incident should contact the Center for Prevention and Outreach at (631) 632-2748, Counseling and Psychological Services (CAPS) at (631) 632-6720, Student Health Service at (631) 632-6740, or the SAFE/SANE Program (Sexual Assault Forensic Examiner) at (631) 360-3606. Reports made to these resources will be kept confidential and individually identifiable information will not be reported to the Office of Equity and Access.

Even Stony Brook 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 Office of Student Conduct and Community Standards and the Office of Equity and Access to investigate and/or seek a resolution. Stony Brook University will limit the disclosure as much as possible, even if the Office of Equity and Access determines that the request for confidentiality cannot be honored.

3. Obligation to Investigate

If a student discloses an alleged incident of sexual misconduct to a non-confidential employee that disclosure may be reported to the Office of Equity and Access whether or not the student requests confidentiality. Certain Stony Brook employees, designated as responsible employees, are required to report incidents of sexual misconduct.

If the Office of Equity and Access becomes aware of an incident of sexual misconduct, Stony Brook may be required to investigate. The Office of Equity and Access may not be able to honor a request not to investigate or for confidentiality if failure to investigate does not adequately mitigate a potential risk of harm to the reporting individual or other members of the community. The Office of Equity and Access must weigh the request against Stony Brook's obligation to provide a safe, welcoming and non-discriminatory environment. Factors used to determine whether to or not to honor a request for confidentiality or not to investigate include (but are not limited to):

- a. whether the respondent has a history of violent behavior or is repeat offender;
- b. the increased risk that the respondent will commit additional acts of violence;
- c. whether the accused used a weapon or force;
- d. whether the reporting individual is a minor;
- e. whether the University has other means to obtain evidence such as security footage;
- f. and whether available information reveals a pattern at a given location or by a particular group.

Stony Brook may provide interim measures or other assistance to a reporting individual regardless of whether that individual consents to an investigation.

If an individual discloses information through a public awareness event such as candlelight vigils, protests, or other public event, Stony Brook is not obligated to begin an investigation based on this information.

4. Amnesty

The health and safety of every student at the State University of New York and its State-operated and community colleges is of utmost importance. Stony Brook University recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Stony Brook University strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to 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 Stony Brook University officials or law enforcement will not be subject to Stony Brook University Code of Student Responsibility 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.

5. Retaliation

Retaliation against an employee, student or any witness who participates in any University investigation is prohibited. Retaliation is also prohibited against any individual who files a sexual misconduct complaint or participates in a complaint investigation in any manner. Any substantiated act of retaliation may result in sanctions or other student conduct action as covered by the Code of Student Responsibility or University policy and/or the conduct procedures pursuant to the applicable collective bargaining agreements and applicable policies and procedures.

6. Sexual Misconduct

Sexual misconduct, which can occur in many forms, is discrimination on the basis of sex and/or gender, and may occur between people of the same or opposite sex, or who identify as LGBTQ, and it is prohibited. The Parties will be made aware of their rights and available resources. The following behaviors constitute sexual misconduct:

a. Sexual Harassment

No student shall perform any acts that are considered to be sexual harassment. Sexual harassment encompasses unwelcome sexual advances, unwelcome requests for sexual favors or requests for sexual favors in exchange for some benefit, and/or verbal or physical conduct of a sexual nature. Sexual violence is a form of sexual harassment. Sexual harassment is a form of sexual discrimination. Sexual harassment occurs when:

- i.** Submission to such conduct is made either explicitly or implicitly a term of or condition of any individual's employment or education; or
- ii.** Submission to or rejection of such behavior by an individual is used as the basis for employment or educational decisions affecting the individual; or
- iii.** A behavior is sufficiently severe or pervasive to interfere with any individual's work or educational performance, or create an intimidating, hostile, or offensive work or educational environment. Such prohibited conduct includes, but is not limited to, unwelcome sexual communication, touching, and non-consensual sexual contact, including but not limited to sexual touching, intercourse, and violence. Examples of sexual harassment include, but are not limited to:
 - a.** Comments
 - b.** Derogatory statements or other verbal abuse
 - c.** Exploitation
 - d.** Graphic or sexually suggestive comments about an individual's attire or body

- e. Graphic or sexually suggestive gestures
- f. Exposing one's genitals
- g. Inquiries or discussions about sexual activities
- h. Profanities
- i. Sexually suggestive letters or other written materials
- j. Slurs
- k. Teasing
- l. Touching

b. Non-consensual sexual contact

No student shall perform any acts that are considered to be non-consensual sexual contact. Non-consensual sexual contact is any contact of a sexual nature which is unwanted or unwelcome. Sexual contact with another person without consent (as described in Section VII.C.6. below) is prohibited. Non-consensual sexual contact may include but is not limited to:

- i. Attempted penetration
- ii. Brushing up against another in a sexual manner
- iii. Fondling
- iv. Grabbing
- v. Kissing
- vi. Pinching

c. Non-consensual sexual intercourse and/or penetration

No student shall perform any acts that are considered to be non-consensual sexual intercourse and/or penetration. Non-consensual sexual intercourse and/or penetration is any sexual penetration or intercourse that is unwanted or unwelcome. Prohibited conduct includes but is not limited to non-consensual:

- i. Anal and vaginal penetration and attempted penetration and/or intercourse.
- ii. Oral sex or attempted oral sex, or the insertion of a foreign object into the vagina, urethra, penis or rectum of another.
- iii. This also includes what may be referred to as sexual assault, which is also commonly known as "rape," whether forcible, or non-forcible, "date rape" and "acquaintance rape." For parties found responsible for Non-consensual sexual intercourse and/or penetration, the available sanctions are suspension with additional requirements and expulsion.

d. Non-consensual physical violent contact during sexual contact

No student shall perform any acts that are considered to be non-consensual physical violent contact during sexual contact. Prohibited conduct includes but is not limited to

punching, choking, burning or otherwise intentionally causing serious physical harm without consent of a partner.

e. Dating Violence

No student shall perform any acts that are considered to be dating violence. Dating violence is any act of 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 victim's statement and with consideration of the nature and length of the relationship and the frequency of interaction between the persons involved in the relationship. Two people may be in a romantic or intimate relationship, regardless of whether the relationship is sexual in nature; however, neither a casual acquaintance nor ordinary socializing between two individuals in a business or social context shall constitute a romantic or intimate relationship. This definition does not include acts covered under domestic violence. Dating violence includes:

- i. Isolation: Trying to cut off relationships with other family and friends.
- ii. Emotional abuse: Humiliating the Complainant in front of friends, guilt and manipulation if confronted, extreme and persistent jealousy.
- iii. Intimidation: Instilling fear through threatening behavior, verbal aggression, abuse of animals or destruction of property.
- iv. Coercion: Threatening to harm themselves or a third party if demands are not met or the relationship is ended.
- v. Physical: Using or threatening to use physically assaultive behavior such as hitting, shoving, grabbing, shaking, slapping, beating, kicking, etc.
- vi. Sexual: Non-consensual sexual touching or non-consensual sexual activity.
- vii. Harassment: Using electronic media (internet, cell phones, texting, and social media) or other means to keep track of the Complainant.

f. Domestic Violence

No student shall perform any acts that are considered to be domestic violence. Domestic violence is any felony or misdemeanor crime of violence committed by a current and/or former spouse and/or intimate partner of the victim. An intimate partner includes persons legally married to one another; persons formerly married to one another; persons who have a child in common, regardless of whether such persons are married or have lived together at any time, couples who are in an intimate relationships, including but not limited to, couples who live together or have lived together.

g. Stalking

No student shall engage in stalking. The term stalking means intentionally engaging in a course of conduct, directed at a specific person, which is likely to cause a reasonable person to fear their safety or the safety of others or cause that person to suffer

substantial emotional damage. Examples include, but are not limited to, repeatedly following such person(s), repeatedly committing acts that alarm, cause fear, or seriously annoy such other person(s) and that serve no legitimate purpose, and repeatedly communicating by any means, including electronic means (cyberstalking), with such person(s) in a manner likely to harass, intimidate, annoy, or create a nuisance or alarm.

7. Affirmative Consent

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

a. Non-consent/Limitations of Consent

- i.** Consent to any sexual contact or any specific sexual act cannot be given if an individual is under the age of 17.
- ii.** Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.
- iii.** Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with any other person.
- iv.** Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- v.** Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by:
 - a.** A physical or mental condition, infirmity or disability that limited informed decision making;
 - b.** The lack of consciousness or being asleep;
 - c.** Being involuntarily restrained; or
 - d.** If an individual otherwise cannot consent.
- vi.** Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants (whether involuntary or voluntary) may be incapacitated and therefore unable to consent.
 - a.** Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of immediate or future harm.

- b. Coercion is the use of an unreasonable amount of pressure to engage in sexual activity. Coercion is more than an effort to persuade, entice or attract another person to engage in sexual activity.
 - c. Intimidation is an implied threat that menaces or causes reasonable fear in another person.
- vii. Consent cannot be given when it is the result of the use of physical intimidation to secure compliance with sexual activity.
 - viii. Intoxication or impairment of the Respondent is no defense to charges of sexual misconduct.

b. Revocation of Consent

- i. Consent may be initially given, but it may be revoked/or withdrawn at any time, either verbally, through physical resistance, or by losing consciousness.
- ii. When consent is withdrawn or cannot be given, sexual activity must stop.
- iii. Failure to cease sexual contact promptly in response to withdrawal of consent constitutes prohibited non-consensual sexual contact.

D. Sexual Misconduct Procedures/Resolving Complaints

The Complainant has the right to make a complaint against the Respondent. If charges are brought and a hearing is conducted, a finding of responsibility as to each of the charges must be supported by a preponderance of the evidence; whether it is “more likely than not” that the incident occurred. The Respondent enjoys a presumption of not responsible unless and until proven otherwise by a preponderance of the evidence. If the totality of all the information presented meets this standard, then the Respondent will be found responsible.

1. Time Limits

In the interest of ensuring a safe and welcoming environment at University facilities and University sponsored programs or affiliated activities there is no time limit which bars the reporting of an incident of alleged sexual misconduct. Note, however, that the more time that lapses between the incident and the investigation the more difficult it will be for the University to obtain complete and accurate witness statements and other information to address the complaint.

2. Time Frame

Absent extenuating circumstances, the investigation process from receipt of a complaint through determination is expected to take place within ninety (90) calendar days from the University’s receipt of the complaint. Note however, the period of time required to take in an initial inquiry, report or complaint from the initial interview process through the conclusion of the investigation and resolution, may be impacted by various factors, such as the complexity of the case, immediate availability of

parties, witnesses and other information in support or defense of an allegation, on-going criminal investigations, etc. Therefore, the time frame may exceed ninety (90) calendar days.

Stony Brook University will comply with law enforcement requests for cooperation, which may require the Office of Student Conduct and Community Standards and other University offices to temporarily suspend the fact-finding aspect of an investigation while the law enforcement agency is in the process of gathering evidence. Temporary delays should not last more than ten (10) business days except when law enforcement specifically requests and justifies a longer delay. Stony Brook University will promptly resume its investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process. As necessary, Stony Brook University will implement appropriate interim steps during the law enforcement agency's investigation to provide for the safety of the parties and the University community, and to avoid retaliation.

3. Timely Notice of Meetings

Both parties will be given timely notice of any meeting they are required or eligible to attend.

4. Interim Measures

When deemed necessary the University will take appropriate interim measures concerning the interaction of the parties: Pending the investigation process; Before the final outcome of the investigation and if applicable; Review Panel. Interim measures include but are not limited to:

a. Temporary Restriction from Personal Contact

Imposing a temporary restriction from personal contact means that the parties are prohibited from having any personal, verbal, electronic (email, instant message, text message, social media etc.), written, phone, cell phone, or third-party contact with another person pending an investigation and/or hearing whenever the contact could constitute a danger to the person or to the safety of the person or property, or the seriousness of the allegations warrants such action. If the accused/respondent and a reporting individual/complainant observe each other in a public place, it will be the responsibility of the accused/respondent to leave the area immediately and without directly contacting the reporting individual/complainant. Intentional contact with the other party is a violation of University policy and may result in additional student conduct action. Any student so restricted may obtain an explanation of the basis for such restriction upon request.

b. Interim Suspension

Whenever the continued presence of a student charged with Code violations would constitute a danger to the student or to the safety of persons or property on the premises of the institution, or his/her presence would pose a threat of disruptive

interference with the normal conduct of the institution's activities and functions, or the seriousness of the charges warrants such action, the Vice President of Student Affairs or designee may issue an Interim Suspension may apply to a portion of the University or the entire campus.

c. Alternate Academic Scheduling

A student's academic schedule may be altered/limited. Limitations include: restricting parties from attending class/classes, reassigning parties to a different class section, allowing parties to attend their scheduled class but with restrictions, allowing students to attend classes but requiring parties to sign in and out, restricting parties from certain areas of campus, restricting parties from campus but allowing parties to fulfill class requirements via internet, restricting parties from attending graduation or other ceremonies, etc.

d. Campus Restrictions

Students may be restricted from: certain areas/buildings/facilities/departments/offices on campus, participating in events/activities/sponsored events, parking and/or driving on campus or in certain areas, or from utilizing certain services including but not limited to, using Stony Brook bus services, etc.

e. Technological Restrictions

Students may be restricted from accessing campus internet or SINC sites, and/or another party's Stony Brook email accounts.

f. Housing Restrictions

Students may be restricted from certain buildings/quads/areas on campus, relocating parties to different room assignments; or have their guest privileges restricted.

g. Employment Restrictions

Employment, including but are not limited to, restricting the dates/times/locations/hours permitted to work.

Both the Complainant and the Respondent may request a prompt review, reasonable under the circumstances, of the need for and terms of an interim measure (b. through g.), including potential modification and shall be allowed to present evidence in support of their request.

5. Student Conduct Conference

When the evidence does not merit conduct charges but concerns regarding conduct or escalating behavior remain, the University may request that a student attend a Student Conduct Conference to review the University's concerns and the applicable sections of the Code of Student Responsibility. Students will be encouraged to be more mindful of the Code of Student Responsibility and their behavior. When appropriate the student may be advised at a Student Conduct Conference of any interim measures during the investigation that will continue.

6. Prehearing Procedure

A University official will inform the Complainant(s) and Respondent(s) of the scheduled hearing.

a. Navigator

The Complainant(s) and Respondent(s) will each be offered a Navigator by the University. The role of the Navigator(s) is to assist the parties throughout the process. Navigator(s) may be present at any meetings or hearings with their assigned parties but may not engage in any verbal presentation or questioning at the Review Panel.

b. Advisor

In addition to a Navigator, the parties may each select an advisor of their choice. However, the parties may each have only one person at the Review Panel. Advisors for either party may advise or assist but may not engage in any verbal presentation or questioning at the Review Panel. Attorneys may serve as advisors to the parties, subject to the same limitations and conditions as delineated above.

c. Investigation

Investigations will be conducted by a University Investigator in accordance with the time frame set forth in Section VII.D.2. The Investigator is a neutral, fact-finding, impartial individual who is trained annually in investigating sexual misconduct complaints.

- i.** The investigation will include interviews with the parties and witnesses.
- ii.** Both parties will have the opportunity to offer information in support or defense of allegation(s).
- iii.** Students are expected to cooperate with the investigation, however, failure to respond to request for timely meetings will not halt the investigation.
- iv.** In circumstances involving the investigation of the complaints where the Complainant does not choose to proceed, the University official reserves the right to continue its investigation regardless of the Complainant cooperation or involvement.
- v.** Upon completion of the investigation, the investigator will prepare a report which the Complainant(s) and Respondent(s) will be permitted to review prior to the hearing.

d. University's Decision to Proceed

Upon Completion of the investigation, the Office of Equity and Access and the Office of Student Conduct and Community Standards shall determine whether there is sufficient evidence to warrant further action. If such evidence exists, the following will occur.

e. Directive to Appear and Notice of Charges

The student charged with an alleged violation of the sexual misconduct policy will be provided written notice of the allegations. The Notice will include the date, time, location, and description of the alleged incident giving rise to the charges, the section(s) of the Code allegedly violated as well as the sanctions that could be imposed if the student is found responsible for the allegations. The Notice will also direct the student to attend a Review Panel on a specified date. The Review Panel shall be scheduled for no less than ten (10) calendar days from the date of the Notice.

f. Hearing Waiver

Respondent may choose to accept responsibility for and not contest the charges against them. If this election is made, the student will sign a waiver of their right to a hearing and must accept the sanction(s) identified in the waiver. A student's decision to waive their hearing and accept the sanction(s) is final and not appealable by the respondent.

g. Information in Support/Defense of Allegations

Information in support/defense of allegations should be provided to the Office of Student Conduct and Community Standards prior to the conclusion of the investigation.

- i. The parties will be permitted to review the investigative report five (5) business days prior to the Review Panel Hearing.
- ii. Following review of the investigative report, parties must submit any rebuttal information in support/defense of the allegations to Office of Student Conduct and Community Standards three (3) business days prior to the Review Panel Hearing.
- iii. Additional rebuttal information received by the Office of Community Standards following the completion of the investigation and the issuance of the investigative report will be reviewed to determine relevance and admissibility.
- iv. Additional information determined to be relevant and admissible will be provided to all parties no later than one (1) business day prior to the Review Panel Hearing.

h. Information to be Presented at the Hearing

All written information that will be presented at the hearing will be made available to the parties prior to the hearing as outlined above in g. The University official presiding at the Review Panel may exclude

information in support/defense of allegation(s) that has not been provided as required above or adjourn the hearing. The University official will make the final decision relating to the admissibility of all information in support/defense of allegations. Written statements in support/defense of the allegations may be considered. Firsthand oral statements will be given greater weight than hearsay statements.

7. Mediation (Dispute, Conflict Resolution)

Mediation is a process available for resolving certain disputes between individuals or groups. For sexual misconduct cases, mediation is only available in cases where the Office of Equity and Access believes that mediation would be an appropriate option for resolution. In those cases, the Office of Equity and Access will present that option to Complainant(s) and Respondent(s). Stony Brook University will not compel a Complainant(s) or Respondent(s) to participate in mediation and mediations will only move forward with the consent and agreement of all parties involved. Any party can withdraw from mediation at any time. Mediation is a voluntary, confidential, and non-judgmental process providing an opportunity for parties in conflict to meet with trained mediators to present the issues. Mediation can be an alternative to or supplement the formal student conduct process for certain types of conflict. The mediator's role is to facilitate a written agreement between or among parties in conflict. Mediation agreements are enforceable as Official Directives, and failure to comply with an agreement may be a violation of the Code. When a satisfactory agreement cannot be reached through mediation, any party may refer the complaint for student conduct action.

8. Review Panel Members

a. Attendance at the Review Panel

Those in attendance at the Review Panel may include the Complainant(s), Respondent(s), their navigator or advisor, and witnesses (while giving statements), the presiding University official and Review Panel Members. The presiding University official shall determine whether additional persons may be present.

Hearings shall be closed to members of the campus community and to the public.

b. Review Panel Composition

Review Panels are composed of faculty and staff members.

c. Training

All members of the Review Panel, upon receiving notice of appointment, shall be given necessary information about their responsibilities and the means by which they may fulfill them. Review Panel members will receive training and be knowledgeable about sexual violence and confidentiality requirements.

9. Review Panel Hearing

a. Admittance of Prior Sexual/Mental Health History/Student Conduct History

Prior sexual history with anyone other than the parties will not be permitted. Past mental health history will not be permitted. The prior student conduct history of the Respondent(s), if any, shall not be considered until a finding of responsibility has been made and such record will be relevant only to a determination of the appropriate sanction(s).

b. Questioning

Parties are prohibited from directly cross examining each other. All questions must be written and directed to the Hearing Officer. All questions must be directly relevant to the incident and policies allegedly violated.

The Hearing Officer will ensure that improper questions are dismissed as such. The University may provide options for statements without direct contact, including but not limited to a room partition, separate hearing rooms, video conferencing, or phone conferencing. Each party has the right to ask questions regarding the investigation summary and/or report; parties may also question any witness present.

c. Opening

The presiding University official states the charges and identifies the individuals present.

d. Challenge

Any party may request and cite cause for the removal of any member of the Review Panel. The Hearing Officer will determine whether the cited cause warrants removal.

e. Student Response

The Respondent(s) will be asked to state their response (i.e., responsible, or not responsible) to each of the alleged violations.

f. Investigation Summary/Report

The University's designated investigator will commence the process by reading and/or summarizing the investigation report and providing the facts of the case.

g. Complainant Presentation

Complainant's presentation should begin with an opening statement describing the alleged conduct. The Complainant(s) may opt out of presenting an opening statement, in light of the investigator presenting a summary of the facts. The presentations should also include all information in support of the allegations. The Respondent(s), then the Review Panel members, may question the Complainant(s) regarding the opening statement and information in support of allegation(s).

h. Respondent Presentation

Respondent's presentation should begin with an opening statement, describing the alleged conduct. The presentation should also include all information in defense of allegations. The Complainant(s), then the Review Panel members may question the Respondent regarding the opening statement and information in defense of allegation(s). The Respondent may opt out of presenting an opening statement, in light of the investigator presenting a summary of the facts.

i. Witnesses

The Hearing Officer will introduce the witnesses and ask for their statements. The Complainant, then the Respondent, followed by the Review Panel members, may question the witnesses. The parties may only submit written statements from character witnesses. Oral statements from character witnesses will not be permitted.

j. Closing Statement/Impact Statement

After all witnesses have presented statements and all questioning has been completed, closing statements are made first by the Respondent(s), then by the Complainant(s). Closing statements are intended to summarize the information previously introduced during the investigation process and hearing. No new evidence or statements may be introduced during closing statements. During this time, both parties may also provide an impact statement on how the incident/allegation has affected their University experience. No questioning is allowed during or after closing statements.

k. Deliberation

Upon conclusion of closing statements, the Review Panel reviews all information in support and defense of the allegation to determine the Respondent's responsibility as to each of the charges.

l. Decision

A decision regarding the Respondent(s) responsibility as to each of the charges shall be made by a majority vote of the Review Panel members. A decision of responsibility shall be made only if the allegations contained in each charge have been established by a preponderance of the evidence (more likely than not standard).

m. Recommendation/Determination of Sanction

The Review Panel shall recommend sanctions to the Vice President of Student Affairs or designee. Upon receipt of the recommendations and after review of any previous student conduct record of the Respondent, the Vice President of Student Affairs or designee in consultation with the Assistant Vice President for Equity and Access or designee will make a final determination of sanctions.

10. Post Hearing Procedure/Notification of Disposition

The disposition of the hearing will be communicated in writing to the parties. The disposition will include the date and time of the hearing, the findings, the sanctions to be imposed, the reason for any sanction imposed, and the method for submitting appeals. Each party has the right to choose whether to disclose or discuss the outcome of a hearing. Unless otherwise required by law, all information obtained during the course of the investigation and hearing shall be protected from public release.

11. Sanctions

The following are sanctions that may be imposed:

a. Written Warning

A written warning indicates that a student has committed a violation of University policy and that continued or repeated violations of University policy will result in further student conduct action.

b. Restitution

Restitution for violations against University property may include the restoration or replacement cost of the lost or damaged property.

c. Special Restriction or Loss of Privileges

Students may be restricted from participating in specified events or activities and may be prohibited from specific areas of the campus or entering specific facilities and/or offices. A student's access to specific services may also be restricted.

d. Residential Probation

Students may be placed on residential probation for a specified period of time. During this time, students are permitted to continue to reside in University housing however, violations of University policy during the probationary period may result in additional and more significant sanctions including but not limited to housing suspension or expulsion.

e. University Probation

Students may be placed on University probation for a period of time. Violations of University policy during the probationary period may result in additional and more significant sanctions. Upon successful completion of the probation period, the student may be required to attend periodic meetings with a University official.

The terms of the probation will be tailored to fit the individual circumstances and may include a recommendation for alcohol/psychological counseling or satisfactory attendance at a substance education course, prevention workshop, program, or group, or the completion of other projects and service to the University or affiliated entities. Students placed on University probation may not hold student staff positions, including

but not limited to: Resident Assistant, Office Assistant, Building Coordinator, Orientation Leader, Residential Safety Patrol, Work Crew and Residence Orientation, for the duration of the probationary period. Students placed on University probation may not hold student leadership positions, including but not limited to: Undergraduate Student Government, Graduate Student Organization, Residence Hall Association, National Residence Hall Honorarium, and Inter Fraternity and Sorority Council.

f. University or Residential Service & Educational Projects and Programs

Students may be assigned projects, programs and service (hereinafter referred to as “University Service”) to the University or affiliated entities. “University Service” will be work performed at a stipulated location within the University and with a stipulated supervisor. The Director of the Office of University Community Standards, or designee, will arrange and administer University Service sanctions. Failure to complete the assigned University Service or Educational Project within the specified time period may increase the assignment or result in additional sanctions. Failure to satisfactorily complete an assigned project, program or service will result in the notation: “Conduct penalty not completed” on the academic record. The notation will be removed upon completion of the assigned educational project, program or service.

g. Suspension from the Residence Halls/Apartments

A student may be required to move out of the residence halls/apartments for a given period. The student may apply to be readmitted to the residence halls/apartments following the period of suspension. No preference shall be given to such student in the readmission or re-entry process. Any individual under suspension from the residence halls/apartments is prohibited from entering all residence facilities, residence hall cafeterias and the grounds/roadways around the residence hall quads and apartment complexes. Any individual found violating these terms of suspension from the residence halls/apartments may be suspended from the University and subject to prosecution under the law.

h. Expulsion from the Residence Halls/Apartments

A student may be required to move out of the residence halls/apartments completely and permanently. Any student expelled from the residence halls/apartments is prohibited from entering all residence facilities, residence hall cafeterias and the grounds/roadways around the residence hall quads and apartment complexes. Any individual found violating these terms of expulsion from the residence halls/apartments may be suspended from the University and subject to prosecution under the law.

i. Suspension from the University

Upon suspension from the University, a person loses all the rights and privileges of a student of the University for a stipulated period and is prohibited from using or entering the campus or its facilities. Any suspended individual found on campus during the suspension period will be subject to arrest. Suspension from the University will result in

a notation on the student's academic record. After a period of five (5) years, a student may request removal of the notation. Any student suspended will be blocked from registering for classes and must schedule a meeting with the Office of Student Conduct and Community Standards prior to registering/returning to the University.

j. Expulsion from the University

Upon expulsion from the University, a person loses all of the rights and privileges of a student and is prohibited from using or entering the campus or its facilities. Any expelled individual found on campus will be subject to arrest. Expulsion from the University will result in a notation on the student's academic record.

k. Restriction from Personal Contact

A student may be restricted from having any personal, verbal, electronic (email, instant message, text message, social media etc.), written, phone, cell phone, or third-party contact with another person.

Intentional contact with the other party is a violation of University policy and may result in additional student conduct action.

12. Appeals

a. Grounds for Appeal

Either party may appeal the Review Panel findings on the following limited grounds:

- i. Significant violation of student conduct procedures;
- ii. New information, unavailable at the time of the hearing, has become available and could have substantially impacted the decision; and/or
- iii. The sanction(s) imposed is/are disproportionate in relation to the student's conduct records and/or the nature of the violation.

b. Application for Appeal

Students wishing to appeal a disposition must submit a written application to the designated office within seven (7) calendar days of receipt of the disposition. The application for appeal must identify which of the three grounds forms the basis of the appeal. Students must be in compliance with the disposition at the time of their appeal request and until a final decision on their appeal is rendered.

c. Appeal Procedure

If the appeal has been submitted within the specified time frame and has identified at least one of the permissible grounds for appeal the designated Appeals Panel will review all information submitted. The Appeals Panel may also request interviews with the parties involved. The Appeals Panel will provide the student with its decision in writing. The decision of the Appeals Panel will be final.

13. Links

Office of Student Conduct and Community Standards (SCCS) <http://studentaffairs.stonybrook.edu/ucs/>

Office of Equity and Access <http://www.stonybrook.edu/oea>

Students Bill of Rights https://www.stonybrook.edu/commcms/oea/_documents/Student-bill-of-rights.pdf

Complaint Procedure for Allegations of Discrimination

https://www.stonybrook.edu/commcms/oea/_documents/Complaint_Procedure%2005_01_2018.pdf

On-Line Sexual Misconduct Report Form <http://www.stonybrook.edu/reportit/>