

# Do the Right Thing

## Creating a Safe and Respectful Environment for Colleagues, Students and Visitors

SUNY Cobleskill

January 2017

# SUNY Cobleskill

## Non-discrimination Statement

- **We comply with the law**
  - Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title VI and VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, New York State Human Rights Law and other federal, state, and local laws
- **We don't discriminate**
  - Race, color, national origin, religion, creed, age, disability, sex, gender identity, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction
- **This includes, but is not limited to**
  - Recruitment, application process, examination and testing, hiring, training, grading, disciplinary actions, rates of pay or other compensation, advancement, classification, transfer and reassignment, discharge, and all other terms and conditions of employment, educational status, and access to college programs and activities

# SUNY Cobleskill

## Non-discrimination Statement

- SUNY Cobleskill will provide accommodations to individuals with disabilities in accordance with the Americans with Disabilities Act
  - The college will provide accommodations to ensure the full participation of individuals in college programs, when such accommodations are reasonable and necessary, due to an individual's pregnancy, maternity, or breastfeeding status
- Employees, students, applicants or other members of the college community (including but not limited to vendors, visitors, and guests) may not be subjected to harassment that is prohibited by law, or treated adversely based upon a protected characteristic

# SUNY Cobleskill

## Non-discrimination Statement

- All complaints of sexual violence, including assault, stalking, harassment, intimate partner violence, and other forms of sexually intimidating or threatening conduct will be promptly investigated by the Director of Employee Relations and Affirmative Action (Title IX Coordinator) in cooperation with University Police
- Sexual harassment consists of non-consensual sexual advances, requests for sexual favors, or other verbal or physical conduct on or off campus, when:
  - submission to such conduct is made either explicitly or implicitly a condition of an individual's employment or academic standing; or
  - submission to or rejection of such conduct is used as the basis for employment decisions or for academic evaluation, grades, or advancement; or
  - such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating or hostile academic or work environment
- Sexual harassment may be found in a single episode, as well as in persistent behavior

# SUNY Cobleskill

## Non-discrimination Statement

- Questions or concerns regarding Title IX, Section 504, or any other aspects of SUNY Cobleskill's non-discrimination programs should be addressed to:

Lynn Berger, Director of Employee Relations and Affirmative Action  
(Title IX Coordinator)

Knapp Hall 123 / 518-255-5465 / [bergerla@cobleskill.edu](mailto:bergerla@cobleskill.edu)

- The Non-discrimination Statement and Complaint Procedure for Review of Allegations of Unlawful Discrimination/Harassment can be found on the Human Resources web site

# Title IX: Preventing Sexual Violence, Harassment and Discrimination

# New York Times – January 22, 2014

## Obama Seeks to Raise Awareness of Rape on Campus



President Obama and Vice President Joseph R. Biden met with cabinet secretaries and senior advisers in the Oval Office on Wednesday. *Credit Doug Mills / The New York Times*

# New York Times – May 1, 2014

## 55 Colleges Named in Federal Inquiry Into Handling of Sexual Assault Cases



The campus at Harvard, which is among the universities listed by the Department of Education.

*Credit Gretchen Ertl for The New York Times*



# **Chronicle of Higher Education – October 31, 2013**

## **SUNY Reaches Pact With U.S. to Improve Its Handling of Reported Sex Assaults**

The State University of New York system has reached a voluntary agreement with the U.S. Department of Education to improve how it and each of its 29 state-operated campuses handle reports of sexual assault and harassment, the U.S. Department of Education announced on Thursday.

# **New York Times – Sept. 28, 2014**

## **Active Consent Bill Signed in California**

California has become the first state to require students on college campuses to receive active consent before all sexual activity.

Gov. Jerry Brown on Sunday signed into law a bill that will impose this new standard for consent at all colleges that receive state funding, including all public universities and many private institutions where students receive state grants.

Consent can be conveyed by a verbal “yes,” or signaled in a nonverbal way, but lack of resistance or objection cannot constitute consent.

# New York Times – October 2, 2014

## Cuomo Orders SUNY to Overhaul Its Sexual Assault Rules



*Credit: Shannon Stapleton / Reuters*

Gov. Andrew M. Cuomo said on Thursday that he had instructed the State University of New York to overhaul its approach to preventing, investigating and prosecuting sexual assault, including making affirmative consent the rule on all 64 of its campuses

# **New York Times – July 8, 2015**

## **All NY Colleges to Adopt 'Yes Means Yes' Sex Assault Policy**

Legislation requiring universities in New York state to adopt a uniform affirmative sexual consent policy was signed by Governor Andrew Cuomo on Tuesday.

The so-called "yes means yes" standard defines sexual consent between people as an affirmative, conscious and voluntary understanding to engage in sexual activity. It is part of a nationwide movement aimed at curbing sexual assaults on college campuses.

# What is Title IX?

- Title IX of the Education Amendments of 1972 prohibits sex discrimination in educational programs and activities
  - *“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance”*

# What Does Title IX Address?

- Sex discrimination
  - Unequal pay based on gender
  - Discrimination on the basis of pregnancy
  - Unequal distribution of athletic funds
  - Unequal admissions and financial aid practices
  - All forms of sexual harassment, including verbal sexual harassment, and sexual violence by employees, students, or third parties against employees, students, or third parties
    - *Whether or not* the incidents of harassment occur on the College campus and *whether or not* the incidents occur during working hours

# What Does This Mean for Us?

- The College has a duty to promptly respond to complaints of sexual harassment and sexual violence in a way that limits its effects and prevents its recurrence
- Victims of sexual harassment or sexual violence might be faculty, staff, students, or third parties
  - Similarly, the accused may be from any of those groups
- Victims and alleged perpetrators can be male or female
  - Harassment can take place between two individuals of the same sex

# What Should I Report?

- Any observed, experienced, or known sex discrimination, including sexual harassment and sexual violence
  - Doesn't matter if it occurred on-campus, off-campus, at a nearby private college campus, on spring break in Mexico, study abroad in China, last week, or two years ago



# Who Needs to Report?

- Anyone who experiences, observes, or hears about an incident of sexual harassment or sex discrimination should report it to the Title IX Coordinator or another campus official as soon as possible
  - This includes deans, department chairs, faculty, staff, students, and third parties

# What Is The Role of the Title IX Coordinator?

- The Title IX Coordinator oversees the processes that address reported concerns or claims of sex or gender based harassment, discrimination, misconduct or violence
- The Title IX Coordinator works closely with Student Affairs, Academic Affairs, Human Resources, Wellness Center, University Police and other offices
  - to provide educational programming for the campus community
  - to investigate claims of sexual discrimination, harassment, sexual assault, violence or misconduct
  - to identify the appropriate responses or resolutions as may be prescribed by policy and law
- The Title IX Coordinator also works with the complainant(s) to assist them in accessing any appropriate internal and external support services
  - Our Title IX Coordinator is **Lynn Berger**, Director of Employee Relations and Affirmative Action

# Why Can't the Supervisor or Professor or RA Just "Handle It"?

- Penn State example:
  - 15 years of non-compliance with Title IX
  - Title IX protects anyone with a nexus to the college including visitors
  - Coaches and senior administrators had personal knowledge which equals college knowledge
  - Fear of retaliation

# How About I Just Tell the Police?

- Law enforcement involvement does not relieve the institution from investigating under Title IX
- You may have a Title IX violation without a criminal violation (standard of proof is different)
- Victim may not want to notify police

# Worst Case Scenario

- Victim A tells the Dean
- Victim B tells the RA
- Victim C tells the Police
- **Why is this a problem?**
  - Available evidence is different in each case
  - A and B may not want to file a criminal complaint
  - The Dean and RA each intend to “handle” the situation however they can
  - **No one knows that there are three alleged victims naming the same accused perpetrator**

# Title IX Key Points

- The College is committed to ensuring a community that is safe for all who study, live, work and visit here
- Members of the campus community must always report observed or experienced sex discrimination to the Title IX Coordinator
- We understand that sexual discrimination, harassment, assault, misconduct or violence may be difficult to report but immediate reporting allows for the best possible efforts to support the victims, and to investigate and address the claims

# Affirmative Consent Definition

- 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

# More About Affirmative Consent

- 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
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol
- Consent may be initially given but withdrawn at any time
- 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 the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent.
  - Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm
- When consent is withdrawn or can no longer be given, sexual activity must stop



# Student's Bill of Rights

- All students have the right to:
  - Make a report to local law enforcement and/or state police;
  - Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
  - Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure from the institution;
  - Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
  - Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
  - 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;
  - Describe the incident to as few institutional representatives as practicable and not to be required to unnecessarily repeat a description of the incident.
  - Be free from retaliation by the institution, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
  - Access to at least one level of appeal of a determination;
  - Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process;
  - Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the College.

# Reporting Options

- Victims/survivors have many options that can be pursued simultaneously, including one or more of the following:
  - Receive resources, such as counseling and medical attention
  - Confidentially or anonymously disclose a crime or violation
    - Wellness Center
  - Make a report to an individual with the authority to address complaints, including:
    - Director of Employee Relations & Affirmative Action/Title IX Coordinator (Lynn Berger)
    - Director, Judicial Affairs (Matt LaLonde)
    - University Police
    - Local law enforcement; and/or
    - Family Court or Civil Court

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

- SUNY Cobleskill recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time of an act of violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault, may be hesitant to report such incidents due to fear of potential consequences for their own conduct
- The College strongly encourages students to report incidents of domestic violence, dating violence, stalking, or sexual assault to institution officials
- A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to College officials or law enforcement will not be subject to the College's 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

# Violence Against Women Act (VAWA)

# New York Times – March 7, 2013

## Obama Signs Expanded Anti-Violence Law

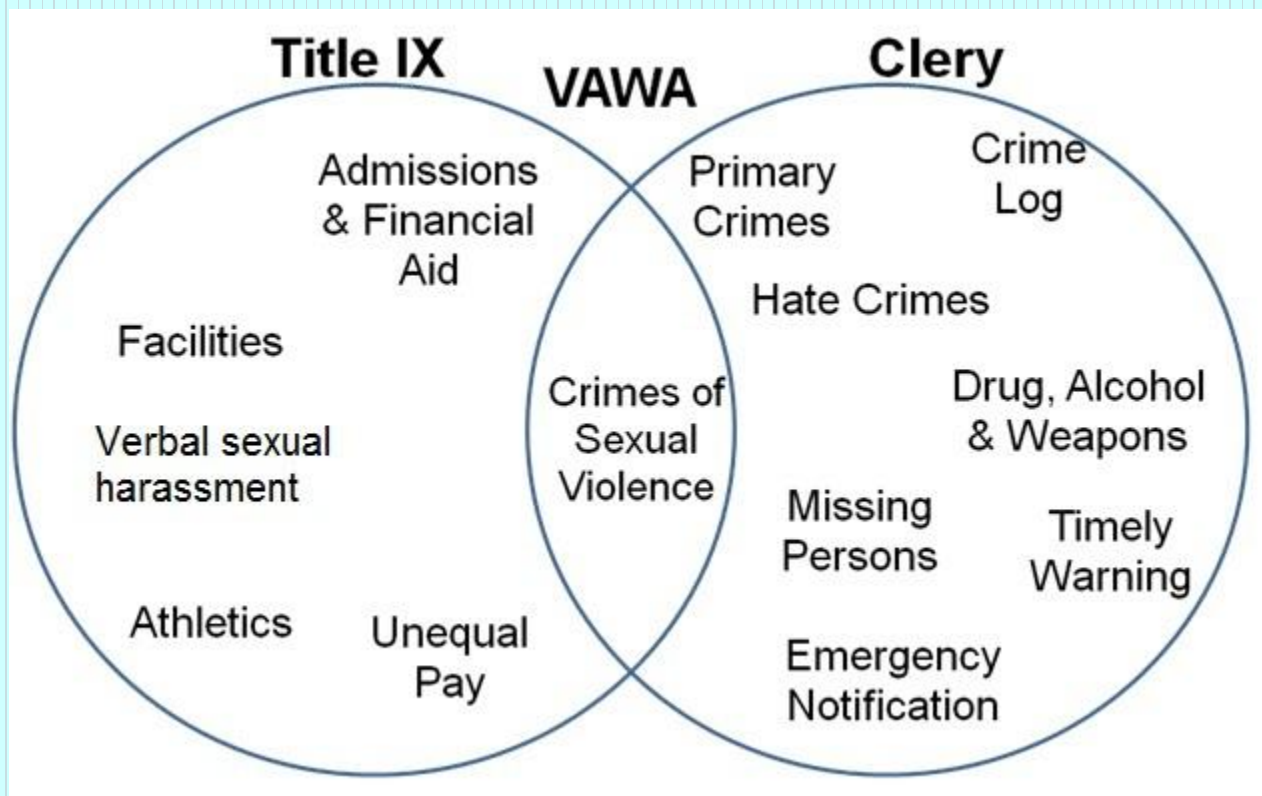


*Doug Mills / The New York Times*

President Obama signed the Violence against Women Act at the Department of Interior in Washington on Thursday.

Standing with survivors of domestic abuse and sex trafficking, President Obama on Thursday signed into law a renewal and expansion of the 19-year-old Violence Against Woman Act, a long-sought victory made possible last month when House Republicans quit blocking the measure's passage.

# Violence Against Women Act



# Federal Requirements for Colleges and Universities

- Under The Violence Against Women Act (“VAWA”), all colleges and universities across the country are required to:
  - Report dating violence, domestic violence, sexual assault, and stalking, beyond crime categories the Clery Act already mandates
  - Adopt certain student discipline procedures, such as for notifying purported victims of their rights
  - Adopt certain institutional policies to address and prevent campus sexual violence
  - Adopt new definitions for sexual misconduct and crimes

# VAWA Definitions of Sex Crimes

- The definitions of sex crimes have been changed to reduce confusion and misreporting of sexual violence, especially in the area of acquaintance sexual assault
  - **Sex Offenses:** 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
  - **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity
  - **Incest:** Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law
  - **Statutory Rape:** Nonforcible sexual intercourse with a person who is under the statutory age of consent (age 17 in NYS)



# VAWA Required Definitions for Student Conduct Codes

- **Consent:**

- Consent is a voluntary agreement to engage in sexual activity
- Someone who is incapacitated cannot consent
- Past consent does not imply future consent; silence or an absence of resistance does not imply consent
- Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another
- Consent can be withdrawn at any time
- Coercion, force, or threat invalidates consent
  
- *Note: Pre-dates “affirmative consent” in NY*

# VAWA Required Definitions for Student Conduct Codes

- **Dating Violence**

- A violent act committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- The existence of the relationship shall be determined based on victim's statement with consideration of the length of the relationship, the type of the relationship, and the frequency of the relationship

- **Domestic Violence**

- A violent crime committed by a current or former spouse or intimate partner OR a person sharing a child with the victim; AND
- Has cohabitated with the victim as a spouse or intimate partner

- **Stalking**

- Engaging in a course of conduct (two or more acts) by which the stalker directly, indirectly, or through third parties follows, monitors, observes, surveils or threatens a person AND
- Causes a reasonable person to fear for his or her safety or the safety of others or causes that person to suffer substantial emotional damage

# Workplace Violence, Sexual Harassment, and Bullying

**New York Times – April 16, 2007**

**Virginia Tech Shooting Leaves 33 Dead**

Thirty-three people were killed Monday on the campus of Virginia Tech in what appears to be the deadliest shooting rampage in American history, according to federal law enforcement officials. Many of the victims were students shot in a dorm and a classroom building.

# Workplace Violence

- The College will not tolerate any act or threat of violence made in the workplace, on College property, or while in work status
- Prohibited conduct includes, but is not limited to:
  - **Use of force with intent to cause harm**, e.g. physical attacks, hitting, fighting, pushing, or throwing objects;
  - **Behavior that diminishes the dignity of others** through sexual, racial, religious or ethnic harassment;
  - **Acts or threats (verbal or physical)** which are intended to intimidate, harass, threaten, bully, coerce, or cause fear of harm whether directly or indirectly;
  - **Use of gestures, words, symbols or pictures** that communicate a direct or indirect threat of harm;
  - **Stalking an employee** with the intent of causing fear to his or her physical safety and health
  - **Carrying, possession or use** of any dangerous weapon on College property or in College buildings or facilities.

# Risk Factors

- **Complacency**
  - "It can't happen here"
  - "If something bad happens, someone else will know how to react"
  - "We don't have the time or money to deal with this now"
- **Incidents aren't reported because:**
  - Excuses are made for the individual's violent or unusual behavior
  - Unwillingness to get involved
  - Concern that complaints won't be taken seriously
  - Fear of retaliation

# Some Practical Tips To Stay Safe At Work

- Know where building emergency exits are located and be prepared to use them if necessary
- Conceal valuables
- Keep emergency numbers handy
- Be aware – pay attention to your surroundings
- Walk and present oneself confidently
- If working late
  - Tell someone where you are
  - Be sure your cell phone is available and fully charged
  - Keep emergency numbers handy
  - Park in a well lit area
  - Call University Police for an escort

# Examples Of Campus Safety Measures

- Campus-wide emergency call system (Blue Lights)
- Presence of University Police 24/7
  - On-campus escort service by University Police
- Annual safety walk-around by Personal Safety Committee
- Maintenance work-order system which prioritizes correction of safety issues
- Employee awareness training
- The Workplace Violence Prevention Program, reviewed annually.  
The program includes:
  - Risk assessments
  - Identification of high risk factors and locations
  - Procedures to report incidents and threats
  - Informational training program



# Recognize Red Flag Behavior:

## Some Warning Signs of Individuals Prone to Violent Behavior

- History of violent behavior
- Makes others feel threatened or uneasy
- Frequently argumentative, uncooperative, abusive or easily angered
- Poor social skills or social relationships
- Feels paranoid, victimized, unfairly treated without reasonable cause
- Has irrational beliefs or ideas
- Behaves in bizarre ways
- Is under significant stress
- Is suffering from debilitating levels of depression or anxiety
- Has problems with alcohol or drug abuse
- Exhibits fascination with weapons, brings weapons into the workplace
- Talks about hurting someone or self

# Defusing A Threatening Situation

- Stay calm – do not raise your voice to match theirs
- Empathize – listen to understand and communicate respect
- Cooperate – watch your body language
- Do not isolate yourself with the person but, if de-escalation seems reasonable, do attempt to remove bystanders
- Walk away if the situation continues to escalate
- Get help – Call University Police
  - Call 911 or x4700 (607-746-4700) for emergencies

# Reacting to a Violent Situation

- If violence is occurring:
  - Agree to the person's demands other than those involving personal safety
  - Leave the area – don't be a hero
  - Employees should NOT attempt physical interventions in workplace altercations.
  - Call University Police
    - Call 911 or x4700 (607-746-4700) for emergencies

# Incident Reporting: Who, What, Where, When

- Report incidents or concerns the first time!
  - Don't wait for a second or third occurrence
- Human Resources is the primary contact for workplace violence concerns
- UPD is the primary contact for physical violence incidents
- The Workplace Violence Prevention Policy can be found on the Human Resources web site

Bloomberg News - August 7, 2010

**HP CEO Mark Hurd Resigns After Sexual-  
Harassment Probe**

CBS News – January 25, 2013

**Square Executive Resigns Following Allegations  
of Sexual Harassment**

New York Times - June 21, 2014

**American Apparel Ousts Its Founder, Dov  
Charney, Over Nude Photos**

# What Is Harassment?

## Quid Pro Quo Harassment – "This for That"

- *Quid pro quo* harassment generally results in a tangible employment decision based upon the employee's acceptance or rejection of unwelcome sexual advances or requests for sexual favors
- It can also result from unwelcome conduct that is of a religious nature
- Examples:
  - supervisor who fires or denies promotion to a subordinate for refusing to be sexually cooperative
  - supervisor requires a subordinate to participate in religious activities as a condition of employment
  - supervisor offers preferential treatment/promotion if subordinate sexually cooperates or joins supervisor's religion

# What Is Harassment?

## Hostile Work Environment

- A hostile environment can result from the unwelcome conduct of supervisors, co-workers, customers, contractors, or anyone else with whom the victim interacts on the job
- The unwelcome conduct renders the workplace atmosphere intimidating, hostile, or offensive
- Examples of behaviors that may contribute to an unlawful hostile environment include:
  - discussing sexual activities
  - telling off-color jokes concerning race, sex, disability, or other protected bases
  - unnecessary touching
  - commenting on physical attributes
  - displaying sexually suggestive or racially insensitive pictures
  - using demeaning or inappropriate terms or epithets
  - using indecent gestures
  - using crude language
  - sabotaging the victim's work
  - engaging in hostile physical conduct

# Examples of Hostile Environment Sexual Harassment

- **Nonverbal** – May include staring at someone (i.e. “undressing someone with one’s eyes”); blowing kisses; winking; or licking of one’s lips in a suggestive manner; displaying sexually oriented pictures or cartoons; using sexually oriented screen savers; viewing pornographic web sites
- **Verbal** – May include telling jokes; using sexually explicit profanity or threats; describing sexual encounters with others; suggesting sexual activity; whistling in a sexually suggestive manner; using terms such as “honey”, “babe”, “sweetheart”, “dear”; repeated requests for dates, etc.
- **Physical Contact** – May include touching, patting, pinching, bumping, grabbing, cornering or blocking a passageway, kissing, providing unsolicited back or neck rubs
- **Bottom line: If someone thinks you are harassing them, you ARE harassing them!**



# Bullying is Harassment

- Definition of bullying: Repeated aggressive behavior where one person (or a group of people) in a position of power deliberately intimidates, abuses, or coerces an individual with the intention to hurt that person physically or emotionally\*
- Types of bullying (can occur separately or simultaneously)
  - Physical bullying - kicking or pushing
  - Verbal bullying - name-calling or yelling
  - Relational bullying - excluding or rumor-spreading
  - Cyberbullying - sending hurtful messages via computers and/or cell phones
- Bullying is addressed in the Workplace Violence policy
  - Prohibited behavior includes:
    - Acts or threats which are intended to intimidate, harass, threaten, bully, coerce, or cause fear of harm whether directly or indirectly
    - Acts or threats made directly or indirectly by oral or written words, gestures or symbols that communicate a direct or indirect threat of physical or mental harm

*\*Source: PromotePrevent.org*

# When Does Harassing Conduct Violate the Law?

- Unlawful harassing conduct must be unwelcome AND based on the victim's protected status AND
- The conduct must be:
  - subjectively abusive to the person affected; and
  - objectively *severe and pervasive* enough to create a work environment that a *reasonable person* would find hostile or abusive.
- Whether an instance or a pattern of harassing conduct is *severe or pervasive* is determined on a case-by-case basis, with consideration paid to the following factors:
  - the frequency of the unwelcome discriminatory conduct
  - the severity of the conduct
  - whether the conduct was physically threatening or humiliating, or a mere offensive utterance
  - whether the conduct unreasonably interfered with work performance
  - the effect on the employee's psychological well-being
  - whether the harasser was a superior within the organization

# What Happens If You Are Harassed or Observe Harassment?

- What Do I Do?
  - Tell your supervisor
    - Management has a duty to report
  - Tell HR
  - File a written report
- What Happens Next?
  - We will explain the victim's options and available resources
  - We will conduct an investigation
  - We will maintain confidentiality
  - We will take action so that it does not happen again

# Domestic Violence/Dating Violence

# Washington Post – August 30, 2012

## George Huguely V sentenced to 23 years for Yeardley Love murder



George Huguely V found guilty of second degree murder : A jury convicted the former U-Va. lacrosse player in the 2011 death of his onetime girlfriend Yeardley Love

# Associated Press - August 5, 2014

## **CNY Man Sentenced for Killing Girlfriend inside SUNY Brockport Dorm**

A 22-year-old man has been sentenced to 25 years to life in prison for killing his girlfriend inside her western New York college dorm room two years ago.

Local media report that Clayton Whittemore wept while being sentenced to the maximum prison term Tuesday in state Supreme Court in Rochester.

Whittemore was found guilty of second-degree murder in May for fatally beating 18-year-old Alexandra Kogut inside her room at the State University of New York College at Brockport on Sept. 29, 2012.

Whittemore and Kogut were from New Hartford, near Utica.

Whittemore was enrolled at Utica College when he killed the former high school swimming star by beating her with his fists and a curling iron.

New York Daily News - January 19, 2016

### **3 Found Dead Near SUNY Geneseo Campus in Suspected Murder-Suicide**

A murder-suicide left the upstate village known as the home of SUNY Geneseo heartbroken as classes resumed Tuesday.

Police said “distraught” ex-boyfriend Colin Kingston, 24, a former student, stabbed his ex-girlfriend, Kelsey Annese, 21, and her fellow current student Matthew Hutchinson, 24, at Annese’s home near campus early Sunday.

# What is Domestic/Dating Abuse?

- Domestic/dating abuse is ongoing, purposeful behavior that is aimed at dominating one's partner, and often one's children as well
- Domestic/dating abuse involves repeated, ongoing, intentional control tactics used by one partner against the other
  - Those tactics may be physical, sexual, economic, psychological, or all of the above
  - An abuser is someone who engages in a pattern of coercive control, not simply someone who physically assaults a partner
- Victims need domestic violence services, safety planning, orders of protection, and support
  - Victims should not have to deal with domestic abuse all by themselves



# Definition of Domestic Violence (VAWA)

- A violent crime committed by a current or former spouse or intimate partner OR a person sharing a child with the victim; AND
- Has cohabitated with the victim as a spouse or intimate partner

# Definition of Dating Violence (VAWA)

- A violent act committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- The existence of the relationship shall be determined based on the victim's statement with consideration of the length of the relationship, the type of the relationship, and the frequency of the relationship

# What is SUNY's Role in Aiding Domestic Violence Victims?

- The College will comply with and assist with enforcement of all known court orders of protection, particularly orders in which abusers have been ordered to stay away from the work site
- Employees are encouraged to bring their orders of protection (OP) to the attention of the Director of Employee Relations and Affirmative Action (Lynn Berger)
  - The document will be kept in a locked file cabinet in the HR office
  - In the case of a workplace emergency requiring the presentation of the OP to law enforcement, if the Director of Employee Relations and Affirmative Action is unavailable to obtain the document, the Manager of HR Operations (Jan Elwell) will have access to the locked cabinet
- The Director of Employee Relations and Affirmative Action will discuss with the employee a plan on how to best proceed to ensure the safest possible work environment for the employee and the rest of the staff
  - This may include providing a copy of the OP and/or photo of perpetrator to security or front desk personnel; discussion of who should be told if there is no security or front desk staff, such as a supervisor/colleagues who would be able to assist with the identification of the perpetrator; requests for LOA/FMLA, creating a personal workplace safety plan, etc.
- The employee is responsible to notify the Director of Employee Relations and Affirmative Action (Lynn Berger) if there are any changes to the OP
- The College's Domestic Violence Policy can be found on the Human Resources web page

# Employee Assistance Program (EAP)

- The New York State Employee Assistance Program is a joint labor-management program open to all State employees and their families
- Services include:
  - Assessment for referral to the most appropriate community resource provider for services related to emotional or physical illnesses, alcohol and other drug-related problems
  - Assistance with family-related problems
  - Information on resources for issues such as child care, eldercare, legal, and financial support services
- Marie Gerhardt is the SUNY Cobleskill EAP Coordinator
  - Your confidentiality will be protected
  - Marie can be reached at extension 5327
  - You may also contact NYS EAP by calling 1-800-822-0244

# Child Protection

# New York Times – October 28, 2013

## Penn State to Pay Nearly \$60 Million to 26 Abuse Victims

Jerry Sandusky, 69, is serving a 30- to 60-year state prison sentence



*Patrick Smith/Getty Images*

# Child Sexual Abuse

- On December 17, 2012, the SUNY Board of Trustees adopted a new policy to mandate the reporting of incidents of child sexual abuse on University property and at University-sponsored events, and to take steps to prevent such incidents
  - The purpose of this policy is to protect minors who are present on SUNY campuses or participating in SUNY-sponsored activities
- On June 17, 2014 the SUNY Board of Trustees adopted a System-wide Child Protection Policy applicable to all SUNY State-Operated campuses
  - The SUNY policy goes above and beyond all reporting requirements currently mandated by New York State law
- All members of the University community have a role to play in preventing sexual abuse of children and providing University Police with relevant information about the victim and assailant so that law enforcement consequences will be triggered
- It is a violation of the policy for a member of the University community to attempt to handle a case of sexual abuse “in house” (i.e.: within a department, residence hall, or athletic team)
- All reports must be brought to the attention of University Police for further investigation and handling as a criminal matter
- No retaliation or retribution against anyone based on making a report under this policy

# Child Protection Policy

## Covered Activity Test

### Custody, Control and Supervision

- Parent or legal guardian has *placed the child in the care of the University, University affiliate or third party* for a *duration of time* and *for a specific covered activity*.
- The University/ affiliate/ third party *is exercising its own authority* to guide, manage and supervise the child, *in the place of* the parent or legal guardian.

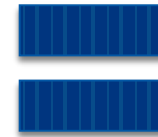


# Child Protection Policy

## Definition of “Child”



But NOT  
a matriculated  
student *or*  
person accepted  
for matriculation



“Child”  
for  
purposes  
of the  
Policy

# Child Protection Policy

## Covered Activity Decision Tree

Are participants “children” under the Policy definition? *Under 17, not matriculating students*

YES

(a) sponsored or approved by

- University; ***OR***
- University-affiliated organization; ***OR***
- Vendor – Licensee - Permittee for which a license or permit for use of University facilities has been approved; ***AND*** occurring on or off campus.

YES

(b) for the duration of the activity, custody, control and supervision of children is vested in the University, University affiliate or the approved vendor, licensee or permittee.

YES

COVERED ACTIVITY

NO

NO

POLICY  
NOT  
APPLICABLE

NO

# Duties of a Responsible University Official

**RESPONSIBLE UNIVERSITY OFFICIALS must do the following for all “Covered Activities”:**

**BEFORE the “Covered Activity”**

1. **COMMUNICATION:** Confirm that policy requirements have been communicated as required;
2. **TRAINING:** Confirm that all “Covered Persons” have completed training;
3. **SEARCHES:** Confirm completion of Sex Offender Registry Searches;
4. **THIRD PARTY:** Confirm (if applicable) that third party acknowledgements have been submitted.

**DURING the “Covered Activity”**

5. **REPORT:** Report incidents of child abuse;
6. **NOTIFY AND COORDINATE:** Notify and coordinate with campus offices as required;
7. **IDENTIFICATION:** Ensure that “Covered Persons” are wearing proper identification.

# Child Protection Policy

## Definition of “Covered Person”



Person who is responsible for the custody, control or supervision of children participating in the Covered Activity

who is also either

(i) an employee of the University or University-affiliated;

(ii) a University student;

(iii) a volunteer of the University or University-affiliated organization;

OR

(iv) a vendor, licensee, permittee or other person, who is given permission to come onto campus or to use University facilities for Covered Activities;

OR

(v) an employee, agent or volunteer of (iv) above.

**Covered Person**

# Required Conduct of a Covered Person

**Reasonable measures of a “Covered Person” to prevent physical and sexual abuse of a child:**

- 1. GET TRAINED**
- 2. WEAR IDENTIFICATION**
- 3. REMOVE THE CHILD FROM ABUSE**
- 4. REPORT SUSPECTED ABUSE**

# Third Party Use of University Facilities

## **REVOCABLE PERMIT REQUIRED**

- Third parties must sign a revocable permit for the use of University facilities for a “Covered Activity.”
- Third parties must follow SUNY’s Child Protection Policy.
- Extensive rules and requirements, insurance, etc. required.

# Any Exceptions?

- No!
- Policy applies whenever we have custody and control of children:
  - One child or 100 children
  - One hour or one month
  - First time event or event you've held for 10 years
  - In our buildings or on our grounds or off-site

# Who to Contact

- If you are planning an event involving children or hear about an upcoming event involving children
  - Contact your Cabinet member – for event pre-approval
  - Contact Barbara Sprouse for revocable permits (3<sup>rd</sup> party events)
  - Contact Evelyn Davies for Events Coordination
  - Contact Amanda Reinhardt for sex offender registry checks, ID lanyards, and questions about training materials
  - Contact CAS for event ID cards
  - For additional information and training materials:  
<http://system.suny.edu/compliance/topics/childprotection>



# Reasonable Accommodations

# Accommodations for People with Disabilities

- A disability, as defined in the Rehabilitation Act of 1973, is a physical or mental impairment which substantially limits one or more of a person's basic life activities
  - A disability may be visual, auditory, mobility, or other health related impairment, emotional difficulty, or learning disability -- it may be permanent or temporary
- The Americans with Disabilities Act and the Rehabilitation Act of 1973 guarantees equal opportunity for individuals with disabilities in employment, public accommodations, transportation, state and local government services and telecommunication – including technology/internet access
- We have an obligation to make appropriate academic adjustments and reasonable modifications to policies and practices in order to allow the full participation of students with disabilities in the same programs and activities available to non-disabled students
- At SUNY Cobleskill, Access Ability Resources is the office which ensures that reasonable accommodations are put in place for students
  - Human Resources is the office which ensures that reasonable accommodations are put in place for employees
- Students desiring accommodations must provide documentation of their disability, and work with Access and Equity Services to develop an accommodation plan for each semester
- Important for faculty to document what accommodations are being made (or denied)
- There is a grievance process for students who feel that their academic accommodations have not been honored. The grievance procedure can be found at: [http://www.cobleskill.edu/academics/accessibility-resources/grievance\\_procedures.asp](http://www.cobleskill.edu/academics/accessibility-resources/grievance_procedures.asp)
- Students with disabilities have other rights regarding residence hall living, as protected under the federal Fair Housing Act

# Alcohol and Drug Abuse

# **National Council on Alcoholism and Drug Dependence**

Up to 40% of industrial fatalities and 47%  
of industrial injuries can be linked to  
alcohol consumption and alcoholism

# Alcohol & Controlled Substances

- Use and abuse of alcohol and drugs has a detrimental effect on the productivity, attendance, and health of our work force
  - As a public employer, we must be vigilant to protect the safety and welfare of the public with whom we interact and the employees with whom we work
- New York State prohibits on-the-job use of, or impairment from, alcohol and controlled substances.
- Violations of the State policy on alcohol and substance abuse in the workplace may be the subject of disciplinary action pursuant to Section 75 of the Civil Service Law or the Disciplinary Articles of collectively negotiated agreements
- An employee may be required to undergo medical testing if a supervisor has a reasonable suspicion that he or she is unable to perform job duties due to a disability which may be caused by the use of alcohol.
  - If the cause of the disability is found to be drug or alcohol related, the employee relations officer, in conjunction with the employee's supervisor, may refer the employee to voluntary and confidential participation in the statewide Employee Assistance Program.
  - Other available options include pursuing disability leave procedures or disciplinary measures.

# Alcohol & Controlled Substances

- A "reasonable suspicion" must be based upon specific, reliable observation concerning the appearance, behavior, speech or body odor of the employee. Examples include:
  - Unsteady gait, odor of alcohol on the breath, thick or slurring speech, aggressive or abusive language or behavior, disorientation or lethargy
  - The employee's time and attendance patterns, (such as absences around weekends, pass days or payday, excessive use of sick leave, excessive lateness and unauthorized absences)
  - On-the-job accidents, difficulty in recalling instructions or conversation, poor relationships with co-workers and supervisors, and other variations in productivity
- State employees are also subject to criminal, civil, and disciplinary penalties for the distribution, possession, sale, or the attempt to sell controlled substances in the workplace or while performing in a work-related capacity
  - "Controlled substances" refers to the hundreds of chemicals listed in the Controlled Substances Act by the federal government
  - All so-called "street drugs" (heroin, cocaine, crack, marijuana, speed, acid) are controlled substances
- A person using a prescribed drug under a doctor's supervision is not breaking any law
  - The use of prescribed drugs without a physician's prescription is illegal

# Employee Assistance Program (EAP)

- The New York State Employee Assistance Program is a joint labor-management program open to all State employees and their families
- Services include:
  - Assessment for referral to the most appropriate community resource provider for services related to emotional or physical illnesses, alcohol and other drug-related problems;
  - Assistance with family-related problems;
  - Information on resources for issues such as child care, eldercare, legal, and financial support services;
- Marie Gerhardt is the SUNY Cobleskill EAP Coordinator
  - Your confidentiality will be protected
  - Marie can be reached at extension 5327
  - You may also contact NYS EAP by calling 1-800-822-0244

# What Does “Do the Right Thing” Mean for Me?

- If you witness or experience unacceptable behavior, you have a duty to act
  - Be an active bystander
  - Say “That’s not OK” or “Don’t do that again”
  - Tell your supervisor and/or Human Resources
- Be self-aware
- Treat your colleagues with respect
- Protect our students from harm
- Comply with College policies and the law