



St. Peter's Hospital College of Nursing

ST PETER'S HEALTH PARTNERS

STUDENT HANDBOOK PART B

*Manual of Sexual Offense Policies &
Procedures for Students and Employees*

2019-2020

Revised 2019 (July)

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Employees TABLE OF CONTENTS**

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I. Definitions

- A. **Accused** – a person accused of a violation who has not yet entered SPHCON's judicial or conduct process.
- B. **Affirmative Consent** – a knowing, voluntary, and mutual decision among all participants to engage in "sexual activity" (as defined below). 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.

- Consent to any sexual activity between or with any party does not necessarily constitute consent to any other sexual act.
 - Whether through words or actions that clearly display consent, each party must affirmatively consent to participating in each sexual activity. Consenting to one type of sexual activity is not blanket consent to any and all types of sexual activity.
- 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- Consent may be initially given but withdrawn at any time.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, being under the age of consent, or if an individual otherwise cannot consent.
 - Minors who cannot consent under New York's laws covering age of consent are considered incapacitated. Under New York law, the age of consent is 17 years old. Students and employees are encouraged to review New York State Penal Law Article 130 for additional details regarding New York's age of 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. This does not mean that individuals cannot affirmatively consent to sexual activity or contact when they have been drinking or using drugs, however. Such individuals may still affirmatively consent through words or actions that clearly indicate interest in engaging in the activity.
 - Incapacitation is to be determined by a student conduct or investigation process based on available evidence, acknowledging that in almost no cases will scientific evidence of alcohol or drug level (such as a breathalyzer taken at the time of the assault) be available. There is no single standard or number of drinks that leads to incapacitation. This

level varies for different people, and may depend in part on their age, gender, height, weight, metabolism and whether and how much they have recently eaten.

- 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.
 - Consent can “no longer be given” when a party to a sexual act or sexual contact initially consents to the activity, but during the course of the activity falls asleep or otherwise becomes unconscious or incapacitated. At that point, the other party must stop the sexual activity or contact.

C. **Bystander** – a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of rules or policies of SPHCON. A bystander is not a “reporting individual” (as defined below), even if the bystander brings forth a report.

D. **Confidentiality** – may be offered by an individual who is not required by law to report known incidents of sexual assault or other crimes to institution officials, in a manner consistent with state and federal law, including but not limited to 20 U.S.C. § 1092(f) and 20 U.S.C. § 1681(a). Licensed mental health counselors, medical providers and pastoral counselors are examples of SPHCON or Samaritan Hospital employees who may offer confidentiality.

The obligation to keep information in confidence is inherent for certain SPHCON professionals on campus, such as health care providers, licensed social workers, licensed psychologists, and pastoral and professional counselors (including licensed mental health counselors). Many off-campus resources such as rape crisis centers are also confidential, and with the exception of certain child abuse and imminent threats, individuals working in such organizations have no obligation to report information back to the reporting individual’s campus.

It is important to note that all other SPHCON employees who do not fall within the categories listed above are required to report known incidents of sexual assault or other crimes, so they are NOT confidential resources. However, even SPHCON officers and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information you provide to a nonconfidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution.

E. **Crime of Violence** – murder, manslaughter, rape, fondling, incest, statutory rape, robbery, aggravated assault, burglary, motor vehicle theft, and arson, as defined below.

- **Criminal Homicide: Manslaughter by Negligence:** The killing of another person through gross negligence.
- **Criminal Homicide: Murder and Nonnegligent Manslaughter:** The willful (nonnegligent) killing of one human being by another.
- **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: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent. Under New York law, the age of consent is 17 years old. See New York State Penal Law Article 130.
- Robbery: The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.
- Aggravated Assault: An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. (It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used which could and probably would result in serious personal injury if the crime were successfully completed.
- Burglary: The unlawful entry of a structure to commit a felony or a theft. For reporting purposes this definition includes: unlawful entry with intent to commit a larceny or felony; breaking and entering with intent to commit a larceny; housebreaking; safecracking; and all attempts to commit any of the aforementioned.
- Motor Vehicle Theft: The theft or attempted theft of a motor vehicle.
- Arson: Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

F. **Nonconsensual Sexual Activity** – occurs when “sexual activity” (as defined below) is perpetrated against a victim without his or her “affirmative consent” (as defined above).

G. **Privacy** – may be offered by an individual when such individual is unable to offer confidentiality under the law but shall still not disclose information learned from a reporting individual or bystander to a crime or incident more than necessary to comply with applicable laws, including informing appropriate SPHCON officials.

Although most SPHCON employees are not confidential resources, they can still offer “privacy.” This means that an employee may have to share information pursuant to federal or state law or school policy with certain other SPHCON

employees, but they will not share the private information beyond what is required or needed to comply with law and policy, and will otherwise limit re-disclosure as much as possible.

Privacy of the records specific to the investigation is maintained in accordance with New York State law and, with respect to student records, the federal Family Educational Rights and Privacy Act of 1974 (FERPA) statute. Any public release of information to comply with the timely warning provisions of the Jeanne Clery Act (Clery Act) will not release the names of victims or information that could easily lead to a victim's identification.

- H. **Relationship Violence** – under SPHCON's policies, the term "relationship violence" includes relationship violence, domestic violence, and dating violence as defined under federal and/or state law.

Generally, Relationship Violence is a pattern of coercive behaviors that serve to exercise control and power in an intimate relationship. The coercive and abusive behaviors can be physical, sexual, psychological, verbal and/or emotional in nature. Intimate partner abuse can occur in relationships of the same or different genders, and/or between current or former intimate partners who have dated, lived together, or been married. Relationship Violence includes both domestic violence and dating violence.

- Under federal law:
 - Domestic violence is defined as felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or New York family violence laws, or by any other person against an adult or youth victim who is protected from that person's acts under New York domestic or family violence laws.
 - Dating violence is defined as 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 is determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.
- Under New York law, domestic violence is generally defined as a pattern of coercive tactics, which can include physical, psychological, sexual, economic and emotional abuse, perpetrated by one person against an adult intimate partner, with the goal of establishing and maintaining power and control over the victim. There is no specific crime of "domestic violence" under New York State law. Domestic violence is handled through the criminal courts and the Family Court as a "family offense." A family offense is defined as certain acts/crimes delineated in the Penal Law (such as harassment, menacing, assault, and stalking) committed by a family member (individuals who are married, related by blood, or who have a child in common). Victims who meet this definition may go to criminal court to seek an order of protection and have the abuser prosecuted, or they may go to Family Court for an order of protection, services, and assistance with custody and child support. Individuals victimized by an intimate partner who does not meet the definition of family member, such as a boyfriend or same-sex partner, can only go to criminal court for legal assistance. In addition, mandatory arrest, which applies when an abuser violates an order of protection or commits certain other offenses, is only applicable when a case involves individuals who meet the

family definition. According to the NYS Office for the Prevention of Domestic, however, many police departments in New York State use an expanded definition of family when making mandatory arrest determinations. This provides greater protection to victims who fall outside of the family definition, although these victims still do not have access to Family Court.

- I. **Reporting Individual** – a victim, survivor, complainant, claimant, or witness with victim status. The term reporting individual is limited to those who are directly impacted by the violation as victims. A bystander to a violation, or a third party who reports information about a violation that he or she has learned from a victim, is NOT a reporting individual.
- J. **Respondent** – a person accused of a violation who has entered SPHCON’s judicial or conduct process.
- K. **Sexual Activity** – has the same meaning as “sexual act” and “sexual contact” as provided in 18 U.S.C. § 2246(2) and 18 U.S.C. § 2246(3). Therefore, the term “sexual activity” includes the following:
- contact between the penis and the vulva or the penis and the anus, and for purposes of this definition contact involving the penis occurs upon penetration, however slight;
 - contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
 - the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;
 - the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;
 - or
 - the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

Individuals must obtain affirmative consent (as defined above) prior to engaging in any of the activity referenced above.

- L. **Sexual Assault** – under SPHCON’s policies, the term “sexual assault” includes a sexual assault as defined under federal and/or state law.

Under federal law, the term “sexual assault” means an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI’s UCR program and as set forth in Appendix A to the Clery Act regulations (34 CFR § 668.46). In Appendix A to the Clery Act regulations, these terms are defined as follows:

- **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, forcibly and/or against that person’s will; or, not forcibly or against the person’s will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
- Incest – sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

- Statutory Rape – sexual intercourse with a person who is under the statutory age of consent. Under New York law, the age of consent is 17 years old. See New York State Penal Law Article 130.

Under New York law, “sexual assault” includes any and all “sexual offenses” defined in New York State Penal Code Article 130. These sexual offenses include sexual misconduct, rape, sexual abuse, forcible touching, and aggravated sexual contact, and involve conduct that would generally fall within the above-listed definitions. However, these offenses also cover certain actions, such as sexual assault with an object, which may not be included within the above-listed definitions. Students and employees are encouraged to review the full definitions and elements of these offenses, which can be found in New York State Penal Law §§ 130.00 to 130.96.

- M. **Sexual Offense** – a term used by SPHCON in this policy, which includes any incident of “sexual assault,” “nonconsensual sexual activity,” “relationship violence,” and/or “stalking,” as those terms are defined in this policy.
- N. **Stalking** – under SPHCON’s policies, the term “stalking” includes stalking as defined under federal and/or state law.

Generally, stalking is a pattern of behavior that can include:

- Repeatedly leaving or sending victim unwanted items, presents, flowers
- Harassing the victim through the internet, including social networking websites
- Repeated, unwanted and intrusive phone calls, e-mails or text messages; especially after being clearly informed to stop
- Damaging or threatening to damage the victim’s property
- Following, monitoring, surveillance of victim and/or victim’s family, friends, co-workers
- Abusing or killing a pet or other animal
- Crossing jurisdictions/borders to stalk/commit offenses

Under the Clery Act regulations, stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for the person’s safety or the safety of others; or (b) suffer substantial emotional distress. For the purposes of this definition:

- “course of conduct” means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property;

- “reasonable person” means a reasonable person under similar circumstances and with similar identities to the victim; and
- “substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Under New York law, a person engages in stalking when he or she intentionally, and for no legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct:

- is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person's immediate family or a third party with whom such person is acquainted; or
- causes material harm to the mental or emotional health of such person, where such conduct consists of following (including unauthorized tracking of someone's movements or location through a GPS or other device), telephoning or initiating communication or contact with such person, a member of such person's immediate family or a third party with whom such person is acquainted, and the actor was previously clearly informed to cease that conduct; or
- is likely to cause such person to reasonably fear that his or her employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person's place of employment or business, and the actor was previously clearly informed to cease that conduct.

More detailed definitions can be found in New York State Penal Law §§ 120.45 to 120.60.

II. Prohibited Acts

The St. Peter's Hospital College of Nursing (SPHCON) strictly prohibits all Sexual Offenses. In the event that a Sexual Offense does occur, SPHCON will act to assist and protect the victim and act against the accused.

SPHCON's Sexual Offense Policies & Procedures are available to all students and employees, and are applicable to any conduct that has a reasonable connection to SPHCON. SPHCON will apply the provisions of this policy regardless of whether the Sexual Offense occurs on campus, off campus, or while a student or employee is participating in a study abroad program. When the Sexual Offense involves students or employees from two or more institutions, SPHCON will work collaboratively with the other institutions to address the Sexual Offense, provided that the collaboration complies with the Family Educational Rights Privacy Act (FERPA).

III. Non-discrimination

SPHCON applies the protections set forth in these policies and procedures regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, criminal conviction, familial status, or any other protected characteristic under federal or state law.

Further, SPHCON students have the right to exercise their civil rights and practice of

religion without interference by SPHCON's investigative, criminal justice, or judicial or conduct process. Additionally, SPHCON will not force students to undergo medical procedures that they say are forbidden by their religion. SPHCON will work with participants to ensure they do not have to choose between participating in the process and practicing their religion.

IV. Procedure for Responding to a Sexual Offense

If you believe you are the victim of a Sexual Offense, you should follow the following procedures:

- A. **Get yourself to a safe place.** Samaritan Hospital Security, the Troy Police Department, and/or the New York State Police can help you do this. Officers of those agencies are trained to respond to the needs of a victim of a Sexual Offense. They can also make you aware of support and advocacy services and advise you about reporting procedures and requirements.
- B. **Obtain medical attention.** For your safety and well-being, immediate medical attention is encouraged. Further, being examined as soon as possible is important in the case of sexual assault. Within 96 hours of an assault, you can get a Sexual Assault Forensic Examination (or “SAFE,” commonly referred to as a rape kit) at a hospital. We encourage you to receive immediate medical attention at a facility that uses SAFE, or Sexual Assault Forensic Examiners. Completing a SAFE will not require you to file a police report, but it will help to preserve evidence in case you decide at a later date to file a police report. Local hospitals, with and without SAFE, include the following:

Program/Entity	SAFE Facility?	Location	Contact Information
Samaritan Hospital	Yes	2215 Burdett Ave. Troy, NY 12180	P: 518-271-3300
Samaritan Hospital St. Mary's Campus	No	1300 Massachusetts Ave. Troy, NY 12180	P: 518-268-5304
Albany Medical Center	Yes	43 New Scotland Ave. Albany, NY 12208	P: 518-262-3125
St. Peter's Hospital	No	315 S. Manning Blvd. Albany, NY 12208	P: 518-525-1550
Albany Memorial	Yes	600 Northern Blvd. Albany, NY 12204	P: 518-471-3221

While there should be no charge from these hospitals for a rape kit, there may be charges for medical or counseling services off campus and in some cases insurance may be billed for services. You are encouraged to let hospital personnel know if you do not want your insurance policyholder to be notified about your access to these services.

Sexual contact can transmit Sexually Transmitted Infections (STIs) and may result in pregnancy. Testing for STIs and emergency contraception is available at:

Program/Address	Telepho	Hours	Cost	Notes
Albany County Health Department STD Clinic 175 Green St Albany, NY 12202	518-447-4589	Tue-Thu 8:30-10:00 AM (check-in)	For a fee. Students must be Albany county residents or full-time students living in	Patients are seen on a first come- first serve basis. Clinic hours listed are for check-in. Clinic
Rensselaer County Health Department 1600 7 th Ave Second Floor Troy, NY 12180	518-270-2655	Wed 2:00-4:30 PM	Free	Walk-in clinic

Remember that this medical treatment may also provide the opportunity for the collection and documentation of evidence, should you decide to pursue the incident and offender through the legal system. The Albany Police Department, the Troy Police Department, and/or the New York State Police may assist you in this effort as well.

The New York State Office of Victim Services may also be able to assist in compensating you (victims/survivors) for health care and counseling services, including emergency funds. More information may be found here: http://www.ovs.ny.gov/files/ovs_rights_of_cv_booklet.pdf, or by calling 1-800-247-8035.

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

- C. **Preserve Evidence.** We encourage you to take steps to preserve any and all evidence when a Sexual Offense occurs, as this evidence may be necessary to prove that the offense took place and/or to obtain a protective order. Be aware that the location of the offense, your clothing, and your person may be considered a “crime scene,” and as such, a source of evidence. The location of the incident should be safe guarded and you should avoid washing, douching, using the toilet or changing your clothes prior to a medical/legal exam. To best preserve evidence, you should avoid showering,

washing, changing your clothes, combing your hair, drinking, eating, or doing anything to alter physical appearance until after a physical exam has been completed.

D. **Report the incident.** SPHCON encourages, but does not require, you (victims, survivors, and witnesses) of Sexual Offenses (reporting individuals) to report the incident to one or more of the following resources:

1. First, you may (but are not required to) report a Sexual Offense to local law enforcement (such as the Troy Police Department), and/or the New York State Police for the sole purpose of documentation. You may also (but are not required to) report it to local law enforcement and/or State Police so that they may investigate the matter and identify an offender. You may contact local and state law enforcement as follows:

- Albany Police Department
165 Henry Johnson Blvd
Albany, NY 12210
Emergencies: 9-1-1
Non-Emergencies: (518) 438-4000
Website:
<https://www.albanyny.gov/Government/Departments/PoliceDepartment.aspx>
- New York State Police, Troop G
General Address: 760 Troy Schenectady Road, Latham, NY
12110 General Phone: (518) 783-3211
Zone 4 – Albany Address: Concourse, Empire State Plaza, Albany, NY
12242
Zone 4 – Albany Phone: (518) 474-5331
- St. Peter's Sexual Assault & Crime Victims Assistance Program.
24 Hr. Crisis Hotline 518-271-3257
<http://www.sphp.com/sexual-assault>

If you want or need assistance in notifying the local Police Departments or State Police, you should contact St. Peter's Hospital Security Office or Maria College's Security Office, who will assist you in doing so.

St. Peter's Hospital Security
315 South Manning Blvd, Albany, NY 12208
518-525- 1522

Maria College Security
714 New Scotland Avenue, Albany NY 12208
518-376-0690

If you choose to contact law enforcement, you may have the further option to (but are not required to) pursue the case through the criminal justice system, where you will be assisted by the District Attorney's office, the local or state Police Department and the support and advocacy services of your choice.

2. Second, you may (but are not required to) report the Sexual Offense to Maria College or St. Peter's Hospital Security. This may trigger the judicial process of SPHCON, which may result in the removal of the offender from the campus. It also assists SPHCON in complying with Federal requirements for reporting offenses occurring on campus. You may (but are not required to) report Sexual Offenses anonymously to St. Peter's Hospital Security, preserving your privacy and only reporting the particulars of the incident.
3. Third, you may also (but are not required to) report the Sexual Offense to a Compliance Officer (identified below) or any senior officer of SPHCON or St. Peter's Hospital Security.
 - When you first disclose an incident to a representative of SPHCON, you will be presented with (1) a copy of the *SPHCON Manual of Sexual Offense Policies & Procedures For Students and Employees* (Part B of the Student Handbook), (2) a written explanation of your rights and options, whether the incident occurred on or off-campus, and (3) the following information: "You have the right to make a report to campus security, local law enforcement, and/or state police or choose not to report; to report the incident to your institution; to be protected by the institution from retaliation for reporting an incident; and to receive assistance and resources from your institution."
 - You will have the right to emergency access to the Title IX Coordinator or another appropriate official who has been designated by the Title IX Coordinator to provide emergency assistance (the "Designee"). The Designee may be an official of SPHCON or an official of an off campus resource. The Title IX Coordinator or Designee will be available upon the first instance of disclosure by a reporting individual to provide immediate information and assistance regarding (1) options to proceed, including other reporting options; (2) where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible; and (3) the criminal justice process, including that it utilizes different standards of proof and evidence and that any questions about whether a specific incident violated the penal law should be addressed to law enforcement or to the district attorney. The Title IX Coordinator or Designee will also explain whether he or she is authorized to offer you confidentiality or privacy, and will inform you about other reporting options.
 - The Title IX Coordinator will generally be available for emergency

access on weekdays between the hours of 9am to 5pm, at the following: Diana O'Brien, Title IX Coordinator; 518- 331-1160 or diana.obrien@sphp.com

- When the Title IX Coordinator is not available, emergency access to the Hospital's Administrator-on-Call is available by calling the operator at St. Peter's Hospital: 518-525-1550.
 - Be aware that certain SPHCON officials with significant responsibility for student and employee activities may be required by law to disclose the occurrence of the event. If you make a report to an official who is required by law to disclose the occurrence of the event, but you request confidentiality, the Title IX coordinator will evaluate the confidentiality request, by weighing the request against SPHCON's obligation to provide a safe, non-discriminatory environment for all members of its community. If it is determined that the incident must be disclosed, your name will be kept confidential, and you will be offered privacy to the greatest extent possible. If it is determined that the incident must be kept confidential, SPHCON will still assist with academic, transportation, and other reasonable and available accommodations.
 - Even SPHCON officers and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution. Your identity will remain private at all times if you wish to maintain privacy.
 - SPHCON will make every effort to ensure that you are asked to describe the incident to as few representatives of SPHCON as possible, and are not required to unnecessarily repeat a description of the incident.
4. Fourth, in addition to, or in lieu of, reporting a Sexual Offense to one or more of the above, you may (but are not required to) make a confidential report to any St. Peter's Hospital pastoral counselor, the Employee Assistance Program, (Carebridge or the Behavioral Health Department at Samaritan Hospital where you may meet with a psychologist or social worker), a nurse-practitioner, or another other person with a professional license or who is supervised by such a person. These employees are exempt from any requirement to further disclose your report to them, unless you want and ask them to do so. These employees can assist in obtaining services for you.
 5. In addition, you may confidentially disclose the Sexual Offense and obtain services from the state or local government.
 6. You can also make an anonymous report to confidential hotlines provided by New York state agencies and not-for-profit entities. These hotlines include:

- New York State Domestic and Sexual Violence Hotline: 1-800-942-6906.
 - Equinox Hotline: 518-432-7865.
 - Unity House Hotline: 518-272-2370.
 - The National Domestic Violence Hotline: 1-800-799-7233.
 - The National Sexual Assault Hotline: 1-800-656-4673.
 - Safe Horizon Hotlines: 800-621-4673 (domestic violence), 866-689-4357 (victims of other crimes, 1-212-227-3000 (rape & sexual assault victims).
7. Lastly, if the accused is an employee of SPHCON, you can report the Sexual Offense to Samaritan Hospital's Human Resources Department, or request that another employee assist in reporting to the Human Resources Department.

SPHCON encourages the victims of Sexual Offenses to report the incidents, in any of the manners described above. However, again, victims are not required to report the offense to, or to seek assistance from SPHCON, law enforcement, or campus authorities. SPHCON will not pressure any student or employee to disclose a crime or violation, or to participate in the judicial, conduct, or criminal justice processes.

Reporting an incident does not:

- obligate you to prosecute;
- subject you to inappropriate scrutiny or judgment by the person receiving the report; or suggest in any way that you are at fault for the crime or violation, or should have acted in a different manner to avoid the crime or violation.

Reporting the incident does:

- ensure that you, as a victim of a Sexual Offense, receive necessary medical testing and treatment; and provides the opportunity for collection of evidence critical to a prosecution, which cannot be obtained later;
- ensure that you have knowledge of and access to professional, confidential counseling from a counselor specifically trained in the areas of Sexual Offenses.

E. Request to File Student Conduct Charges. If the accused or respondent is a student, you may request that SPHCON file student conduct charges against the accused or respondent. All students have the right to request that SPHCON bring student conduct charges against another student. Requests to file charges should be prepared in writing and directed to the Dean of the college of Student Services. Written requests may be emailed to angela.cox@sphp.com or delivered in person to the Dean of Student Services Dean at St. Peter's Hospital College of Nursing, 714 New Scotland Ave, Albany, NY, 12280.

SPHCON retains the right to determine whether to actually file the charges

against the accused or respondent. SPHCON can initiate charges or choose not to initiate them when evidence does or does not merit doing so, in conformity with state and federal law, SPHCON's Student Code of Conduct, and other SPHCON policies. Additional details regarding Student Conduct charges can be found in the Student Code of Conduct, available in the Student Handbook.

You should be aware that there are significant differences between SPHCON's disciplinary system and the criminal justice system, because they have different, important goals. In the criminal justice system, prosecutors pursue cases when they believe there is sufficient evidence to prove, beyond a reasonable doubt, that an individual has committed a criminal act. A person who is convicted of a crime will face criminal penalties, such as incarceration, probation, or the imposition of a fine. SPHCON's disciplinary process seeks to determine whether an individual has violated school policy. In this process, a preponderance of the evidence standard of proof is used to determine responsibility. A person who is found to have violated SPHCON policy may be suspended, expelled or otherwise restricted from full participation in the SPHCON community.

F. **Seek an Order of Protection /or No Contact Order.**

1. Orders of Protection

Victims of Sexual Offenses may have a right to obtain a court order to protect themselves from the perpetrators. SPHCON will enforce all applicable no contact orders, restraining orders, and similar lawful orders issued by a criminal, civil, or tribunal court, to the extent required by law.

An order of protection is issued by the court to limit the behavior of someone who harms or threatens to harm another person. It is used to address various types of safety issues, including, but not limited to situations involving domestic violence. Family Courts, criminal courts, and Supreme Courts can all issue orders of protection. An order of protection may direct the offending person not to injure, threaten or harass you, your family, or any other person(s) listed in the order.

A Family Court order of protection is issued as part of a civil proceeding. Its purpose is to stop violence within a family, or within an intimate relationship, and provide protection for those individuals affected. All Family Court proceedings are confidential. To obtain an order of protection in the Family Court, your relationship to the other person must fall into one of the following categories: (1) current or former spouse, (2) someone with whom you have a child in common, (3) a family member to whom you are related by blood or marriage, or (4) someone with whom you have or have had an "intimate relationship." An intimate relationship does not have to be a sexual relationship. A relationship may be considered intimate depending on factors such as how often you see each other, or how long you have known each other. After a petition is filed, the court will decide if it is an intimate relationship.

To start a proceeding in Family Court, you need to file a form called a

Family Offense petition. You can contact the Family Court in your county for help completing and filing the petition. Contact information for the Family Court in Rensselaer County is as follows:

- Albany County Family Court
Address: 30 Clinton Avenue, Albany, NY 12207
Phone: 518-285-8600
Fax: 518-238-4344

You may also wish to speak with an attorney or domestic violence advocate before filing.

A criminal court order of protection is issued as a condition of a defendant's release and/or bail in a criminal case. A criminal court order of protection may only be issued against a person who has been charged with a crime.

SPHCON will provide reporting individuals assistance from St. Peter's ospital Security, or other appropriate officials in obtaining an order of protection. The following individuals can be contacted for assistance in obtaining or understanding an Order of Protection:

- Marc Tryon, Director of Security, Acute Care
Albany, SPHP
Phone: 518-525-1285
Marc.tryon@sphp.com

- The Legal Project
24 Aviation Road, Suite 101
Albany, NY 12205
[\(518\) 435-1770](tel:5184351770) (phone)
[\(518\) 435-1773](tel:5184351773) (Fax)
www.legalproject.org

SPHCON will provide the accused or respondent and you (the reporting individual) a copy of any order of protection or equivalent that SPHCON receives. SPHCON will also provide the accused or respondent and you (the reporting individual) an opportunity to meet or speak with a representative of SPHCON, or other appropriate individual, who can explain the order and answer questions about it, including information from the order about the accused's responsibility to stay away from the protected person or persons. SPHCON will provide the accused or respondent and you (the reporting) individual an explanation of the consequences of violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension. SPHCON will also call on and assist local law enforcement in effecting an arrest when an individual violates an order of protection.

2. No Contact Orders

You can ask SPHCON to issue a "no contact order" to protect you from the respondent or accused. When a student is accused of a Sexual Offense, SPHCON is automatically required to issue a mandatory "no contact order" to protect you from the respondent or accused. This "no contact order" is a SPHCON document that does not have the legal effect of an order of protection, which is obtained through a court. Under the no contact order: (1) the accused's continued intentional contact with the reporting individual is a violation of SPHCON's policy that is subject to additional conduct charges; and (2) if the accused or respondent and you (the reporting individual) observe each other in a public place, it is the responsibility of the accused or respondent to leave the area immediately and without directly contacting you (the reporting individual). This may include establishing a schedule of attendance for the accused or respondent to access certain locations at SPHCON, such as academic buildings, libraries, and dining halls.

To make a request to impose a SPHCON "no contact order," you can contact: the Dean of the college or Angela Cox, Dean of Student Services at: angela.cox@sphp.com

Responsibility to stay away falls upon the person subject to the "no contact order" ("covered person"), not you (the protected individual). A covered person may be a respondent or accused or a third party who is the subject of a no contact order. If the covered person and you (the protected person) are in the same place accidentally, it is incumbent upon the covered person to remove himself or herself in a reasonable time and manner.

Upon request, both the accused (or respondent) and you (the reporting individual) are entitled to a prompt review, reasonable under the circumstances, of the need for and terms of the "no contact order", including potential modification, in which they are allowed to submit evidence in support of their requests. Requests to review a no contact order should be submitted to the Dean of the college or Angela Cox, Dean of Student Service at angela.cox@sphp.com for a request for review is received from one party, the other party will be notified of the request for review. The Dean or the Student Services Dean will issue a determination in

response to the request, and notify both parties of the determination.

G. **Initiate Legal Proceedings.** You may have the right to initiate legal proceedings. SPHCON serves as a resource to students in initiating these proceedings. However, SPHCON is not required to bring actions on behalf of you (the reporting individual), provide or pay for attorneys, or provide direct support. Local resources may be able to help you initiate legal proceedings, however. These resources may provide services with or without cost. The resources include the following:

- Legal Project
24 Aviation Road, # 101
Albany, NY 12205
Business Phone: (518) 435-1770
- Pro Bono Appeals Program c/o Rural Law Center of NY 90 State Street, Suite 700
Albany, NY 12207
Business Phone: (518) 561-5460
Website: www.nysba.org/CustomTemplates/Content.aspx?id=180
- Albany County Bar Association
112 State Street, Suite 1120
Albany, NY 12207
Business Phone: (518) 445-7691
Website: www.albanycountybar.com
Hotline: (518) 445-7691

H. **Receive Other Intervention Services.**

SPHCON recommends that reporting individuals seek the assistance of trained professionals in the aftermath of a Sexual Offense, and will assist reporting individuals to receive this assistance.

To receive EAP services through Carebridge, call 1-800-437-0911. You may also send an email to clientservice@carebridge.com. You must be an employee or a dependant of an employee of SPHP to qualify. For students who do not qualify for EAP through Carebridge, the Behavioral Health (BH) Department at Samaritan Hospital provides the same services as Carebridge, at no cost to the student. To access services through the Samaritan Hospital BH department, call Roxanne Heath directly at 518-271-3473.

SPHCON has also entered into collaborative partnerships with community-based organizations (including rape-crisis centers, domestic violence shelters, and assistance organizations), to refer students for assistance or make services available to students. These helpful service providers in the Albany and Troy Communities, which may be able to provide helpful services (such as counseling, victim advocacy, and visa/immigration assistance), including the following:

Program/Entity	Contact Information	Cost
New York State Office for the Prevention	P: (518) 457-5800 W: http://www.opdv.ny.gov/	No cost
New York State Coalition Against Sexual Assault	P: (518) 482-4222 W: http://nyscasa.org/	For a fee
The Albany County Crime Victim and Sexual Violence Center	P: (518) 447-7716 W: http://www.albanycounty.com/Government/Departments/CrimeVictimandSexualViolence/	No cost
The Sexual Assault and Crime Victims Assistance Program	P: (518) 271-3257 W: https://www.nehealth.com/Medical_Care/SAM/Sexual_Assault_Center/	No cost
Unity House of Troy	P: (518) 274-2607 W: http://www.unityhouseny.org/	No cost
Equinox	P: (518) 434-6135 W: http://www.equinoxinc.org/	No cost

A number of resources are also available through the New York State Office of Victim Services (OVS). OVS can be contacted by phone at 1-800-247-8035. OVS resources can also be accessed at the following website: <https://ovs.ny.gov>.

- I. **Right to Withdraw**. You have the right to withdraw your report and/or to withdraw from involvement in SPHCON’s investigation of the complaint at any time. If you choose to withdraw, however, SPHCON may still have obligations to investigate and/or take actions under state or federal law. If SPHCON continues an investigation or takes action after you withdraw, you have the right to participate as much or as little as you wish.

V. Policy for Alcohol and/or Drug Use Amnesty for Students

The health and safety of every student at SPHCON is of utmost importance. SPHCON 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. SPHCON strongly encourages students to report 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 who discloses any incident of domestic violence, dating violence, stalking, or sexual assault to SPHCON's officials or law enforcement will not be subject to SPHCON's Student Code of Conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

VI. Immediate Consequences Following a Report of a Sexual Offense

A. Mandatory No Contact Order

As discussed above, when the accused or respondent is a student, SPHCON will issue a mandatory "no contact order" mandating that (1) the accused's continued intentional contact with the reporting individual is a violation of SPHCON's policy that is subject to additional conduct charges; and (2) if the accused or respondent and a reporting individual observe each other in a public place, it is the responsibility of the accused or respondent to leave the area immediately and without directly contacting the reporting individual.

B. Mandatory Interim Suspension

When the accused or respondent is a student determined to present a continuing threat to the health and safety of the community, the accused or respondent will be subject to an interim suspension pending the outcome of a judicial or conduct process.

Upon request, SPHCON will provide both the accused or respondent and the reporting individual a prompt review, reasonable under the circumstances, of the need for and terms of an interim suspension, including potential modification, in which they are allowed to submit evidence in support of their request. Requests to review an interim suspension should be submitted to the Dean of the college or Angela Cox, Dean of Student Services at: angela.cox@sphp.com If a request for review is received from one party, the other party will be notified of the request for review. Either Dean will issue a determination in response to the request, and notify both parties of the determination.

C. Mandatory Interim Measures

When the accused or respondent is not a student, but is a member of SPHCON or the Samaritan Hospital community and presents a continuing threat to the health and safety of the community, SPHCON or Samaritan Hospital will subject the accused or respondent to interim measures in accordance with applicable collective bargaining agreements, employee

handbooks, and rules and policies of SPHCON.

D. **Additional Interim Measures and Accommodations**

SPHCON and St. Peter's Hospital will offer reasonable and available interim measures and accommodations that effect changes in academic, transportation or other applicable arrangements in order to help ensure safety, prevent retaliation, and avoid an ongoing hostile environment, consistent with SPHCON's and St. Peter's Hospital's policies and procedures. These interim measures may include:

- support services (victim advocacy, housing assistance, academic support, counseling, health and mental health services, legal assistance);
- changing work assignments and situations (for employees);
- changing course schedules, assignments, or test schedules (for students);
- no contact orders, campus escorts, transportation assistance, or targeted interventions;
- providing increased monitoring, supervision, or security; and/or providing an escort.

SPHCON is obligated to comply with a student's reasonable request for academic situation changes following an alleged Sexual Offense.

SPHCON will protect the confidentiality of accommodations or protective measures provided to a complainant or accuser, to the extent that doing so will not impair SPHCON's ability to provide the accommodations or protective measures. The complainant or accuser will be informed before SPHCON shares any personally identifying information that SPHCON believes is necessary to provide an accommodation or protective measure. If this occurs, the complainant or accuser will be told what information will be shared, with whom it will be shared, and why it will be shared.

Upon request, SPHCON will provide both the accused or respondent and the reporting individual a prompt review, reasonable under the circumstances, of the need for and terms of any such interim measure and accommodation that directly affects him or her, in which he or she is allowed to submit evidence in support of his or her request. In the event that an accommodation or interim measure granted to or against one party impacts another party, both the directly impacted party and the secondarily impacted party may request a review of the terms or totality of the accommodation and/or measure by SPHCON and may submit information as to the reasoning for requesting a change. Requests to review interim measures and accommodations should be submitted to the Dean of the College or Angela Cox, Dean of Student Services at: angela.cox@sphp.com If a request for review is received from one party, the other party will be notified of the request for review. The Dean or Student Services Dean will issue a determination in response to the request, and notify both parties of the determination.

VII. Investigation and Disciplinary Procedures for Sexual Offense Cases

When SPHCON becomes aware of a Sexual Offense by or against an employee or student or that has a reasonable connection to SPHCON or Samaritan Hospital, it will take prompt and appropriate action.

Investigation and Disciplinary Procedure at a Glance
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| <ul style="list-style-type: none">A. Conduct initial assessmentB. Seek consent from reporting individualC. Conduct investigationD. Issue findings and recommendationsE. Decide upon disciplinary actionF. Hear appeal by either partyG. Issue final decision |
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A. Initial Assessment: The Title IX Coordinator will make an initial assessment regarding the validity of any information received about the incident. This initial determination will be made within five (5) business days of SPHCON becoming aware of the suspected Sexual Offense

B. Consent of Reporting Individual. If Title IX Coordinator determines that an investigation is required, it must seek consent from reporting individuals prior to conducting an investigation. If a reporting individual does not consent to the request to initiate an investigation, the Title IX Coordinator will weigh the request against SPHCON's obligation to provide a safe, nondiscriminatory environment for all members of its community.

SPHCON will honor a request to decline to consent to an investigation, unless SPHCON determines in good faith that failure to investigate does not adequately mitigate a potential risk of harm to the reporting individual or other members of the community, based on the Title IX Coordinator's consideration of factors that include, but are not limited to, the following:

1. Whether the accused has a history of violent behavior or is a repeat offender;
2. Whether the incident represents escalation in unlawful conduct on behalf of the accused from previously noted behavior;
3. The increased risk that the accused will commit additional acts of violence;
4. Whether the accused used a weapon or force;
5. Whether the reporting individual is a minor;
6. Whether the institution possesses other means to obtain evidence such as security footage, and
7. Whether available information reveals a pattern of perpetration at a given location or by a particular group.

If the Title IX Coordinator determines that the request to decline to consent to an

investigation can be honored, SPHCON will still assist with academic, transportation, and other reasonable and available accommodations.

If the Title IX Coordinator determines that a request to decline to consent to an investigation cannot be honored, and an investigation is necessary, SPHCON must notify the reporting individuals and take immediate action as necessary to protect and assist them.

C. Investigation. When an investigation is commenced, and the accused is a student, the Title IX investigator must provide the student, as promptly as possible, with a copy of this Manual and must inform the student of (1) the specific rule, rules, laws, and/or code of conduct provisions alleged to have been violated; (2) the date, time, location and factual allegations concerning the violation; (3) in what manner the specific rule, rules or laws are alleged to have been violated, and (4) the sanction or sanctions that may be imposed on the respondent based upon the outcome of any judicial or conduct process.

Within two (2) business days of determining that an investigation is necessary, the Title IX Coordinator will designate a trained investigator such as the Director of Security for Acute Care Albany, SPHP (Marc Tryon), who does not have a conflict of interest, to promptly conduct a fair, complete, thorough, and impartial investigation, that provides a meaningful opportunity to be heard. If the accused person is an employee, however, the Vice-President of Human Resources will conduct the investigation.

Each of the designated investigators, receives annual training on: (1) issues related to sexual assault, relationship violence, and stalking, (2) how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability, (3) how to conduct investigations of sexual violence, (4) the effects of trauma, (5) impartiality, (6) the rights of the respondent, including the right to a presumption that the respondent is “not responsible” until a finding of responsibility is made, (7) SPHCON’s policies and procedures, and other issues.

If the Title IX Coordinator is implicated in the report, the Dean will be responsible for designating a trained investigator to conduct the investigation. If it would be inappropriate for the Title IX Coordinator or Dean to designate a trained investigator to conduct the investigation, then the Chair of the Board of Trustees will make this designation.

The standard of evidence used to evaluate a report of a Sexual Offense by or against an employee or student is a “preponderance of the evidence.” Under this standard, a determination must be made on the basis of whether it is more likely than not that the accused student or employee violated the Sexual Offense Policies & Procedures for Students and Employees.

In investigating the complaint, the investigator shall:

1. Meet with the appropriate individuals and review all appropriate records that bear on the case.

2. Discuss the allegations in the complaint with the accuser and accused at separate meetings, and provide the accuser and accused with equal opportunities to identify witnesses and present evidence supporting their respective positions at these meetings.
3. Provide the accuser and the accused with the same opportunities for a support person or advisor of their choice throughout the process, including any meeting, conference, hearing or other procedural action. An attorney for either the accuser or the accused, however, may be present but may not have a speaking role during such meetings, conferences, hearings, or other procedural actions.
4. Where the reporting individual or accused are students, provide the students with:
 - a. reasonable advance written or electronic notice of any meeting they are required to or are eligible to attend,
 - b. an opportunity to submit evidence during an investigation concerning a report of a Sexual Offense, and
 - c. the opportunity to exclude (1) their own prior sexual history with persons other than the other party in the conduct process and (2) their own mental health diagnosis and/or treatment from the Compliance Officer or other investigator's consideration when determining responsibility. (However, the investigator may consider past findings of a Sexual Offense when determining the sanction to be imposed).
5. Attempt, where appropriate, to resolve the complaint by exploring and suggesting possible solutions to the problem with all involved parties, provided, however, that the complainant or accuser will not be required to participate in mediation with the accused.
6. If the preceding step does not resolve the problem, make and transmit a preponderance of the evidence determination in the matter of the allegation of the Sexual Offense to the accused, accuser, and the Title IX Coordinator.

The time necessary to complete an investigation will vary depending upon the facts of a particular case. In most cases, investigations will be completed within 60 days of receipt of a report.

D. Findings and Recommendations. The investigator who conducted the investigation shall prepare written findings of fact and recommendations, with respect to whether it is more likely than not that the Sexual Offense occurred, appropriate disciplinary actions, if any, and/or other appropriate remedial measures.

Once the investigation is complete, the parties will be informed, in writing, of the outcome within two (2) business days of the issuance of the determination. When the victim or accused is a student, this written notice will include the result of the investigation, any recommended sanctions, the rationale for the result and any recommended sanctions, the findings of fact, and a notification if conduct charges will be pursued and/or continued. Delivery of this outcome will not be delayed to either party, and should occur as nearly simultaneously as possible, without

unnecessarily bringing those in conflict into close proximity to each other. Should any change in outcome occur prior to finalization, all parties will be timely informed in writing, and will be notified when the results of the resolution process become final.

1. Finding of no violation. If the investigator concludes that the accused student or employee did not violate the policies set forth in this Manual, SPHCON will not pursue discipline against the student or employee. The parties will be informed of their potential rights to exercise a request for an appeal of the determination pursuant to SPHCON Policy #203, Appeals Procedure, by requesting such appeal within two business days of the decision.

2. Finding of violation. If the investigator concludes that it is more likely than not that the accused student or employee violated the policies set forth in this Manual, SPHCON will take the matter very seriously, and will pursue (or continue to pursue) internal disciplinary proceedings against the accused or respondent. The Title IX Coordinator will refer the matter to the SPHP Vice-president for Human Resources (for employees) or Dean of Student Services (for students) to determine whether to pursue disciplinary charges, within five (5) business days of the investigator's determination.

3. Remedial measures. If the investigation reveals that a Sexual Offense did occur, SPHCON will also take appropriate remedial measures necessary to end such conduct, prevent any such future conduct, and correct any personnel or academic decisions made which are related to the prohibited conduct. Remedies may include, but are not limited to, continuing or commencing any of the above-listed "interim measures." These remedies are separate from, and in addition to, any interim measures that may have been provided prior to the conclusion of the investigation. Such measures can be requested by a reporting individual or accuser, by contacting the Director of Human Resources (for employees) or the Dean of the college or Dean of Student Services (for students).

E. Disciplinary Action.

1. Decision not to take disciplinary action. If the Vice-president for Human Resources (for employees) or Dean (for students) determines not to take disciplinary action, SPHCON will not pursue discipline against the student or employee. The parties will be informed of their potential rights to exercise a request for an appeal of the determination, if applicable, pursuant to SPHCON Policy #203, Appeals Procedure by requesting such appeal within two business days of the decision.

2. Decision to take disciplinary action against an employee. If the Vice-president for Human Resources determines to take disciplinary action against an accused employee, information regarding internal disciplinary proceedings for employees can be found in the policies of St. Peter's Health Partners Human Resources Department.

3. Decision to take disciplinary action against a student. If the Dean determines to take disciplinary action against a student, the following process will be followed:

a. The Dean will determine an appropriate disciplinary action. Discipline for incidents of Sexual Offense may take a variety of forms, depending upon the circumstances of a particular case. The disciplinary sanctions which may be imposed on students who have been found responsible for committing any of the Sexual Offenses are the following: warning, disciplinary probation, loss of privileges, fines, restitution, sanctions, parental/guardian notification, suspension, short-term college suspension, long-term college suspension, administrative suspension, expulsion, revocation of a degree, withholding a degree, choosing not to recommend the graduate to the NYSED Board for Nursing for licensure as a nurse, and mandatory assessment/counseling.

b. The Dean will inform both the accused student and the reporter in writing of the disciplinary action, and of the right of either party to request an appeal with the Appeals Committee within 5 business days of such notice. In the event neither party appeals within 5 days of the notice, the disciplinary action is not subject to further appeal and shall be imposed.

F. Appeals. Appeal proceedings where a student is accused of a Sexual Offense are conducted in accordance with SPHCON Policy #203 - Appeals Process, as modified by this paragraph. Such process is fair and impartial, include timely notice of meetings and timely and equal access to information and evidence that will be used, and are conducted by unbiased decision makers who have no conflict of interest. The proceedings are completed within a reasonably prompt, designated timeframe. However, the timeframe may be extended for good cause upon written notice to the accuser and accused. The proceedings provide students with the opportunity to present evidence and testimony at a hearing.

G. Final Decision. Following any appeal proceeding for cases of Sexual Offense, the victim and accused will be provided with simultaneous written notice of the findings of fact, decision and the rationale for such decision, and any disciplinary recommendation. The Dean then will make the final decision. There is no further review or procedure available from SPHCON.

SPHCON will protect all information obtained about students during the course of the disciplinary process from public release, until the Appeals Committee makes a final determination.

An action taken by SPHCON under this Section will be invalidated by the failure of SPHCON to meet one of the time limits imposed herein, unless a party can show actual prejudice to his or her case from the delay.

Engaging in a Sexual Offense may also lead to civil and/or criminal action under the New York State Penal Law. Any employee, who, in violation of SPHCON's policy or SPHP policy, engages in a Sexual Offense, is acting outside the scope of his or her employment and may be personally liable for such actions and their consequences. In the event legal proceedings are commenced against such an employee, SPHCON or SPHP may decline to provide legal, financial, or other assistance.

In any proceeding brought against SPHCON which seeks to vacate or modify a finding that a student engaged in Sexual Offense, SPHCON (1) will treat the name and identifying biographical information of any student as presumptively confidential, and (2) will not include this information in the pleadings and other papers in such proceeding absent a waiver or cause shown as determined by the court; and will identify student witnesses only as numbered witnesses.

VIII. Notation on Student Transcripts for Crimes of Violence

If a student is suspended or expelled as a result of being found responsible for a Crime of Violence, SPHCON must make a notation on the student's transcript that the student was "suspended after a finding of responsibility for a code of conduct violation" or "expelled after a finding of responsibility for a code of conduct violation." If a student withdraws from SPHCON while such conduct charges related to crimes of violence are pending against the student, and declines to complete the disciplinary process, SPHCON must make a notation on the student's transcript that he or she "withdrew with conduct charges pending."

These transcript notations can be appealed by contacting the Dean of the College or the Dean of Student Services. Transcript notations for violence-related suspensions shall not be removed prior to one year after conclusion of the suspension. Transcript notations for violence-related expulsions shall never be removed from a student's transcript. A notation for an expulsion may not be removed via an appeal to SPHCON. If a finding of responsibility is vacated for any reason, however, the transcript notation must be removed. Further, if a court of competent jurisdiction vacates a finding of responsibility for a violation of school policy, the transcript notation memorializing that finding will also be vacated.

IX. Prohibition of Retaliation

It is a violation of federal and state law and this policy for any employee or student to retaliate against any student or employee for exercising any rights or responsibilities under the Violence Against Women Act, the Clery Act, and/or Title IX. This includes retaliating against a student or employee who reports a Sexual Offense in good faith, or furnishes information or participates in any manner in an investigation of such a report. Retaliation includes any conduct directed at someone because he or she engaged in such protected activity, which might deter a reasonable student or employee from making or supporting such a report.

Retaliation is unlawful and will not be tolerated. SPHCON will protect students from retaliation by SPHCON, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within SPHCON's jurisdiction. Any individual found to have engaged in retaliation will be subject to disciplinary action, up to and including, termination of employment and/or dismissal from SPHCON.

Any employee or student who feels as though someone has subjected him or her to retaliation as a result of a report or participation into the investigation of a report

should contact a Compliance Officer (identified below) or other senior officer immediately.

X. Compliance Officers

SPHCON has appointed certain individuals as Compliance Officers. The Compliance Officers are responsible for assisting in the resolution of reports of Sexual Offenses. In addition, Compliance Officers are responsible for being proactive in creating an atmosphere that will inhibit Sexual Offenses. A list of these individuals is set forth below:

Dean of the College
Phone: 518-525-6880

Angela Cox, Dean of Student Services
Phone: 518-471-3215
Angela.cox@sphp.com

Marc Tryon, Director of Security, Acute Care Albany, SPHP
Phone: 518-525-1285
Marc.tryon@sphp.com

XI. Education and Training for Students and Employees

It is the policy of SPHCON to offer multiple methods of educational programming to all students and employees each year to prevent Sexual Offenses. SPHCON has adopted a comprehensive student onboarding and ongoing education campaign to educate members of SPHCON's community about Sexual Offenses, in compliance with applicable federal and state laws.

As part of this campaign, SPHCON offers training to all first-year and transfer students, during the course of their onboarding, on the following topics, using a method and manner determined by SPHCON:

1. SPHCON prohibits sexual and interpersonal violence and will offer resources to any victims and survivors of such violence while taking administrative and conduct action regarding any accused individual within the jurisdiction of the institution;
2. Relevant definitions including, but not limited to, the definitions of sexual assault, domestic violence, dating violence, stalking, confidentiality, privacy, and consent;
3. Policies apply equally to all students regardless of sexual orientation, gender identity, or gender expression;
4. The role of the Title IX Coordinator, campus security, and other relevant offices that address domestic violence, dating violence, stalking, and sexual assault prevention and response;
5. Awareness of violence, its impact on victims and survivors and their friends and family, and its long-term impact;

6. Bystander intervention and the importance of taking action to prevent violence when one can safely do so;
7. Risk assessment and reduction including, but not limited to, steps that potential victims, perpetrators, and bystanders can take to lower the incidence of violations, which may contain information about the dangers of drug and alcohol use, including underage drinking and binge drinking, involuntary consumption of incapacitating drugs and the danger of mislabeled drugs and alcohol, the importance of communication with trusted friends and family whether on campus or off campus, and the availability of institution officials who can answer general or specific questions about risk reduction; and
8. Consequences and sanctions for individuals who commit these crimes and code of conduct violations.

SPHCON requires student leaders and officers of student organizations recognized by or registered with SPHCON, as well as those seeking recognition by SPHCON, to complete training on domestic violence, dating violence, stalking, or sexual assault prevention prior to receiving recognition or registration.

SPHCON also offers specific training to leaders and officers of registered or recognized student organizations, and members of any high-risk populations, as determined by SPHCON.

SPHCON offers general and specific training on each of the following topics to all students and employees:

1. SPHCON's policy prohibiting relationship violence, sexual assault, and stalking;
2. the definitions of "dating violence," "domestic violence," "sexual assault," and "stalking" under federal law, New York law, and SPHCON's policies;
3. the definition of "consent," in reference to sexual activity, under federal law, New York law, and SPHCON policies;
4. a description of SPHCON's educational programs and campaigns to promote the awareness of relationship violence, sexual assault, and stalking;
5. procedures victims should follow if a crime of relationship violence, sexual assault, or stalking has occurred, including information about:
 - a. the importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order;
 - b. how and to whom the alleged offense should be reported;
 - c. options about the involvement of law enforcement and campus authorities, including notification of the victim's option to: (i) notify proper law enforcement authorities, including on-campus and local police; (ii) be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and (iii) decline to notify such authorities;
6. the rights of victims and SPHCON's responsibilities for orders of protection, "no-contact" orders, restraining orders, or similar lawful orders

- issued by a criminal, civil, or tribal court or by SPHCON;
7. information about how SPHCON will protect the confidentiality of victims and other necessary parties, including how it will:
 - a. complete publicly available recordkeeping without including personally identifying information about the victim; and
 - b. maintain as confidential any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of SPHCON to provide the accommodations or protective measures;
 8. SPHCON's policy of providing written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within SPHCON and in the community; and
 9. SPHCON's policy of providing written notification to victims about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures;
 10. SPHCON's policy that, when a student or employee reports to SPHCON that the student or employee has been a victim of relationship violence, sexual assault, or stalking, whether the offense occurred on or off campus, the institution will provide the student or employee a written explanation of the student's or employee's rights and options;
 11. a description of SPHCON's disciplinary proceedings regarding alleged incidents of relationship violence, sexual assault, or stalking, which:
 - a. include a prompt, fair, and impartial process from the initial investigation to the final result;
 - b. are conducted by officials who, at a minimum, receive annual training on the issues related to relationship violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability;
 - c. provide the accuser and the accused with the same opportunities to have others present during any institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice;
 - d. do not limit the choice of advisor or presence for either the accuser or the accused in any meeting or institutional disciplinary proceeding; and
 - e. require simultaneous notification, in writing, to both the accuser and the accused of (i) the result of any institutional disciplinary proceeding that arises from an allegation of dating violence, domestic violence, sexual assault, or stalking; (ii) the institution's procedures for the accused and the victim to appeal the result of the institutional disciplinary proceeding, if such procedures are available; (iii) any change to the result; and (iv) when such results become final.
 12. information on how to prevent and identify sexual violence;
 13. the potential for re-victimization by responders and its effect on students and employees;
 14. the impact of trauma on victims;

15. the role alcohol and drugs can play in sexual violence incidents;
16. appropriate methods for responding to a student or employee who may have experienced sexual violence, including the use of nonjudgmental language;
17. reporting obligations, including what should be included in a report, any consequences for failing to report, and how requests for confidentiality should be treated;
18. protections against retaliation; and
19. other information to prevent violence, promote safety and reduce perpetration.

SPHCON also offers training on bystander intervention. Bystander intervention means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of a Sexual Offense. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene.

Additionally, all employees and students are offered information regarding risk reduction. Risk reduction means options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.

SPHCON shares information on sexual and interpersonal violence and Sexual Offense prevention with parents of students. Information for parents can be found on SPHCON's website at: <http://www.sphp.com/campus-safety>

SPHCON regularly assesses programs and policies established pursuant to federal and state law to determine effectiveness and relevance for students and employees.

XII. Public Awareness and Advocacy Events

As part of SPHCON's public awareness campaign, SPHCON in collaboration with the Rensselaer County Sexual Assault and Crime Victims Assistance Program, may from time to time schedule primary prevention, public awareness, and advocacy programs for students and employees, which may include the following or other similar activities:

- Title IX training - including training on roles as mandated reporters
- Training on how to appropriately respond to victims of sexual assault
- Active Bystander training
- Healthy Relationship trainings
- Walk a Mile in Her Shoes

If an individual discloses information through a public awareness event such as candlelight vigils, protests, or other public event, SPHCON is not obligated to

begin an investigation based on such information. However, SPHCON may use the information provided at such an event to inform its efforts for additional education and prevention efforts.

XIII. Sexual Offender Registry

The federal Campus Sex Crimes Prevention Act enacted in 2000 went into effect October 28, 2002. The law requires institutions of higher education to issue a statement advising the campus community where law enforcement agency information provided by a State concerning registered sex offenders may be obtained. It also requires sex offenders required to register in a State to provide notice, as required under state law, of each institution of higher education in that State at which the person is employed, carries on a vocation, or is a student. The New York State sex offender registry may be accessed at www.criminaljustice.state.ny.us/nsor/index.htm

In addition, the City of Albany maintains a sex offender registry that may be accessed by "Entities of Vulnerable Population." This database may be accessed with the assistance of the NYS trooper assigned to SPHCON for issues related to Title IX and 129B.

XIV. Memoranda of Understanding

SPHCON has entered into memoranda of understanding with providers to:

1. provide sexual assault forensic examination to students; and
2. provide legal assistance to students (including both accused/respondents and reporting individuals).

SPHCON has also executed memoranda of understanding in partnership with:

1. a local rape crisis center, to further provide victim advocacy and support services to victims of sexual violence; and
2. local law enforcement authorities, regarding the protocols and procedures for referring allegations of sexual violence, relationship violence, and stalking, sharing information and conducting contemporaneous investigations regarding such allegations.

XV. Campus Climate Surveys

Commencing during the 2016 - 2017 school year, SPHCON will conduct a biannual anonymous survey of student and employees to examine (1) the prevalence and incidence of Sexual Offense, (2) the perceptions of the campus climate, (3) the general awareness and knowledge of students and employees about the provisions of the New York Enough is Enough law, and (4) student experience with and knowledge of reporting and school adjudicatory processes. Participation in such climate survey shall be voluntary but is encouraged.

The climate survey was developed using standard and commonly recognized research methods, and includes questions covering the following topics:

1. the Title IX Coordinator's role;
2. campus policies and procedures addressing sexual assault;
3. how and where to report domestic violence, dating violence, stalking or sexual assault as a victim, survivor or witness;
4. the availability of resources on and off campus, such as counseling, health and academic assistance;
5. the prevalence of victimization and perpetration of domestic violence, dating violence, stalking, or sexual assault on and off campus during a set time period;
6. bystander attitudes and behavior;
7. whether reporting individuals disclosed to the institution and/or law enforcement, experiences with reporting and institution processes, and reasons why they did or did not report;
8. the general awareness of the difference, if any, between the institution's policies and the penal law; and
9. general awareness of the definition of affirmative consent.

SPHCON will take steps to ensure that answers to climate assessments remain anonymous and that no individual is identified. SPHCON will publish an executive summary of the climate assessment survey results on SPHCON website, provided that no personally identifiable information or information which can reasonably lead a reader to identify an individual is shared.

XVI. Annual Reporting

Reports of certain crimes occurring in specific geographic locations are included in SPHCON's annual security report (ASR), in an anonymized manner that identifies neither the specifics of the crime nor the identity of the reporting individual.

SPHCON is obligated to issue timely warnings of crimes enumerated in the Clery Act occurring within relevant geography that represent a serious or continuing threat to students and employees, except in those circumstances where issuing such a warning may compromise current law enforcement efforts or when the warning itself could potentially identify the reporting individual. A reporting individual shall not be identified in a timely warning.

FERPA allows SPHCON to share information with parents when (i.) there is a health or safety emergency, or (ii.) when the student is a dependent on either parent's prior year federal income tax return. Generally, however, SPHCON will not share information about a report of domestic violence, dating violence, stalking, or sexual assault with parents without the permission of the reporting individual.

Effective in July 2016, SPHCON will annually report the following information about reports of domestic violence, dating violence, stalking and sexual assault to the New York State Education Department:

1. The number of such incidents that were reported to the Title IX Coordinator.
2. The number of reporting individuals who sought SPHCON judicial or conduct process.
3. The number of cases processed through SPHCON judicial or conduct process.
4. The number of respondents who were found responsible through SPHCON judicial or conduct process.
5. The number of respondents who were found not responsible through SPHCON judicial or conduct process.
6. A description of the final sanctions imposed by SPHCON for each incident for which a respondent was found responsible through SPHCON judicial or conduct process.
7. The number of cases in SPHCON judicial or conduct process that were closed prior to a final determination after the respondent withdrew from SPHCON and declined to complete the disciplinary process.
8. The number of cases in SPHCON judicial or conduct process that were closed because the complaint was withdrawn by the reporting individual prior to a final determination.