

# PROCESS FOR ALLEGED SEXUAL AND INTERPERSONAL

## Violence/Misconduct

It is the responsibility of the College to prevent sexual and interpersonal violence where possible, to address it when it occurs, and to take appropriate action against alleged behavior that falls under the Title IX Grievance Policy or the Sexual Harassment, Assault, and Violence Prevention Policy.

### Reporting

In accordance with the New York State Enough is Enough Student's Bill of Rights, reporting individuals have the right to pursue more than one of the options below at the same time or to choose not to participate in any of the options below:

- To disclose confidentially an incident to one of the following officials, who by law maintain confidentiality, and who can assist in obtaining services:
  - i. ESF Counseling Center, 110A Bray Hall, 315-470-4716
  - ii. Syracuse University Hendricks Chapel Chaplaincies, 315-443-5171
- To disclose confidentially an incident and obtain services from the Vera House, 315-468-3260. Additional disclosure and assistance options are catalogued by the Office for the Prevention of Domestic Violence and presented in several languages or by calling 1-800-942-6906. New York State or county hotlines. Assistance and contact information for resources can also be obtained through SUNY SAVR website.
- To disclose an incident to one of the following ESF officials who can offer privacy and provide information about remedies, accommodations, evidence preservation, and how to obtain resources. These officials will also provide the information contained in the Students' Bill of Rights, including the right to choose when and where to report, to be protected by the College from retaliation, and to receive assistance and resources from the College. These College officials will disclose that they are private and not confidential resources and that they may be required by law and College policy to inform one or more College officials about an incident, including, but not limited to, the Title IX Coordinator. They will notify reporting individuals that the criminal justice process uses different standards of proof and evidence than internal processes and that questions about the penal law or criminal process should be directed to law enforcement or the district attorney.
  - i. Title IX Coordinator, 315-565-3012, 220 Bray Hall, [titleix@esf.edu](mailto:titleix@esf.edu)
  - ii. ESF University Police, 315-470-6667, 19 Bray Hall

ESF shall ensure that, at the first instance of disclosure by a reporting individual to a College representative, the following information shall be presented to the reporting individual: "You have the right to make a report to University Police, local law enforcement, and/or State Police or choose not to report; to report to the College; to be protected by the College from retaliation for reporting an incident; and to receive assistance and resources from the College."

- To file a criminal complaint with ESF University Police and/or with local law enforcement and/or State Police:
  - i. ESF University Police, 19 Bray Hall, 315-470-6667
  - ii. Syracuse Police Department Abused Persons Unit, 511 S. Main Street, 315-435-3016
  - iii. Onondaga County Sheriff's Office, Abused Persons Unit, 315-435-3092
  - iv. State police 24-hour hotline to report sexual assault on a NY college campus: 1-844-845-7269
- To receive assistance from the Title IX Coordinator in initiating legal proceedings in family court or civil court.

- To file a report of sexual assault, domestic violence, dating violence, and/or stalking and/or talk to the College's Title IX Coordinator (or designee) for information and assistance. Reports will be investigated in accordance with College policy and the reporting individual's identity shall remain private at all times if the reporting individual wishes to maintain privacy.
- When the accused is a student, to file student conduct charges against the accused. Conduct proceedings are governed by the procedures set forth in this Handbook as well as federal and New York State law, including the due process provisions of the United States and New York State Constitutions. Reporting individuals may withdraw their complaint or involvement from the College process at any time.
- When the accused is an employee, a reporting individual may request that one of the above referenced confidential or private employees assist in reporting to the Title IX Coordinator. Disciplinary proceedings will be conducted in accordance with applicable collective bargaining agreements. When the accused is an employee of an affiliated entity or vendor of the College, College officials will, at the request of the reporting individual, assist in reporting to the appropriate office of the vendor or affiliated entity and, if the response of the vendor or affiliated entity is not sufficient, assist in obtaining a Persona Non Grata letter, subject to legal requirements and College policy.
- Even ESF offices and employees who cannot guarantee confidentiality will maintain privacy to the greatest extent possible. The information provided to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution. The ESF Division of Student Affairs is not a confidential reporting option for individuals wishing to disclose an incident of or file a formal complaint related to allegations of sexual violence. When Student Affairs receives a report of sexual violence, it is required to report the incident to the College's Title IX Coordinator. Information shared will be limited to information needed for investigation, safety, and appropriate follow-up.
- The health and safety of every student at the State University of New York and its State-operated and community colleges is of utmost importance. ESF 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. ESF strongly encourages students to report incidents of domestic violence, dating violence, stalking, or sexual assault to ESF officials. A bystander or a reporting individual acting in good faith who disclosed any incident of domestic violence, dating violence, stalking, or sexual assault to ESF officials or law enforcement will not be subject to ESF's Code of Student 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.

## Process Determination

When the College receives a formal complaint alleging sexual harassment, sexual assault, dating/domestic violence, or stalking, the College's Title IX Coordinator will be notified, and an investigation may be launched. Allegations of sexual violence will be investigated in an unbiased, thorough, and prompt fashion in order to ensure the rights of all involved. The College's primary goal is the facilitation of a fair and transparent process for all involved parties that gathers the facts and results in appropriate decisions.

Due to a 2020 change in federal regulations regarding the enforcement of Title IX of the Education Amendments of 1972, the College has adopted the Title IX Grievance Policy to address sexual harassment and discrimination on the basis of sex. To qualify as a Title IX case, the incident of harassment has to meet parameters as outlined in the Title IX Grievance Policy and will be investigated and adjudicated per that policy.

Per the Title IX Grievance Policy, “[ESF] retains authority to investigate and adjudicate the allegations under the policies and procedures defined within the Non-Title IX Sexual Misconduct Policy through a separate grievance proceeding.” Cases alleging sexual violence which do not fulfill the parameters of the Title IX Grievance Policy may proceed under the Sexual Harassment, Assault, and Violence Prevention Policy. The Title IX Coordinator will turn over the report of any alleged sexual misconduct to the Division of Student Affairs for investigation and, if appropriate, adjudication.

The College should seek consent from reporting individuals prior to conducting an investigation. Before an investigation begins, every effort will be made to meet with the reporting individual to discuss their options and resources within the College and the local community. In cases where the allegation is received from a third party such as a friend, roommate, or faculty/staff member, notification will be sent to the person about whom the allegations refer that a report has been received to allow for that person to serve as the reporting individual.

Under the Sexual Harassment, Assault, and Violence Prevention Policy, the College does not limit the timeframe for filing a formal complaint of sexual violence. Complaints may be submitted at any time following an incident. However, the College’s ability to act may be limited by the matriculation/employment of the accused and/or the availability of information. ESF’s student conduct process extends only to currently enrolled students.

When a reporting individual does not wish to move forward with a formal complaint through ESF’s student conduct process, every consideration will be given to their wishes. Honoring a request to not investigate may limit the institution’s ability to pursue conduct action against an accused individual. Declining to consent to an investigation shall be honored unless the College determines in good faith that failure to investigate does not adequately mitigate a potential risk of harm to the reporting individual and/or other members of the community. The College is committed to providing a reasonably safe and non-discriminatory environment and will take the action it believes is appropriate to protect the community.

Factors that will be used to determine whether to honor such a request include, but are not limited to:

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

If ESF determines that an investigation is required, it shall notify the reporting individual(s) and take immediate action as necessary to provide support to them. ESF will also provide notification to the respondent that a report has been filed and will be given written notice of the allegations, including possible sanctions. These allegations generally include the date, time, location, and name of the reporting individual as well as a list of the College policies that are alleged to have been violated. The respondent will also be informed that the College will be moving forward with an investigation.

## Investigation Process

The College will designate an investigator from a pool of trained investigators to investigate allegations of sexual assault, dating violence, domestic violence, or stalking involving students as the accused/ respondent. Allegations against faculty or staff members, either by a student or another employee, will be investigated by the Title IX Coordinator (or designee) as described in the Title IX Grievance Process.

At a minimum, the investigation will include an interview with the complainant and respondent. Both parties will have equal opportunity to present relevant witnesses and information, and to obtain assistance from the advisor of their choice, at any stage in the investigative and/or student conduct process. The investigator will attempt to seek other relevant information as well. This may include, but is not limited to, interviewing any other individuals who may have information relevant to the situation, and the gathering of any available physical and/or medical evidence. Both the reporting and responding parties reserve the right to review any evidence contained in the case file.

All investigative meetings will be audio recorded. Please see Recording for more information.

An investigation will typically be completed within 60 days of the time of the report, but this timeframe may be extended as necessary to achieve a thorough and reliable gathering of the relevant facts. Certain periods of the academic year, such as during break periods, exam periods, and the summer, make resolution of an investigation more challenging. Information gathered during the investigation will be used to evaluate the appropriate course of action, provide for the safety of the individuals involved and the College community, and impose remedies as necessary to address the effects of the alleged misconduct.

Both the reporting individual and the respondent have the right to have a student conduct process run concurrently with a criminal justice investigation and proceeding, except for temporary delays of a maximum of (10) ten days as requested by external municipal entities while law enforcement gathers evidence. The decision to delay rests with the Dean of Students (or designee). Both parties may also request a respective single delay in writing, not to exceed 5 business days, during the student conduct process.

The investigator will prepare a written report detailing the relevant content of the interviews and the documentation materials that have been gathered. Both the reporting individual and the respondent will be given the opportunity to review the report and submitted evidence. Both the reporting individual and the respondent may provide written responses to the investigator within three (3) business days. Both the reporting individual and the respondent will receive a copy of the final investigative report and any written responses.

In non-Title IX investigations of sexual misconduct, the investigator will provide the written investigative report to the Division of Student Affairs, along with a recommendation on how to proceed. The Dean of Students (or designee) will review the report received from the investigator. Following the review, the Dean of Students (or designee) will either prepare a charge letter for the respondent, copied to the complainant outlining the specific alleged violation(s), or notice to the reporting party and the respondent that the College is not moving forward to the student conduct process.

## Adjudication Process

Any charge letter will include information about the student conduct process. All letters sent by the College as part of the ESF student conduct process will be sent via email to the student's College (syr.edu) email address as this is the method the College uses for official communication with students. All charges related to sexual assault, domestic/dating violence, and stalking will be adjudicated by a College Hearing Board. College Hearing Board proceedings are governed by the procedures set forth in this Handbook as well as federal and New York State law, including the due process provisions of the United States and New York State Constitutions.

Both parties will receive electronic notice via their College (syr.edu) email address of any meetings or hearings they are eligible to attend, including an optional pre-hearing meeting with a staff member in the Division of Student Affairs to review ESF's student conduct process.

Both parties have the right to present evidence and testimony during the Board hearing. Both parties have the right to ask questions of the Hearing Board and via the Board, request responses from other parties and other witnesses. Both parties have the right to a range of options for providing testimony via alternative arrangements, including telephone/videoconferencing or testifying with a room partition.

All parties have the right to exclude prior sexual history with persons other than the other party in the conduct process or exclude their own mental health from admittance during the stage where responsibility is determined.

Both the reporting individual and the respondent will be notified of the outcome of any subsequent student conduct hearings simultaneously and in writing and will have equal opportunity to Appeal any outcomes. If an appeal is filed by either party, both parties will be notified in writing of the outcome of the appeal. The appeal process is described elsewhere in this Handbook.

In all cases, individuals including the complainant, respondent, advisors to the parties, and any witnesses participating in an investigation, or the ESF student conduct process are urged to maintain the privacy of the process in order to assist the College in conducting a thorough, fair, and accurate investigation and student conduct process.

## Retaliation

Retaliation against any person involved in an investigation, including the complainant/reporting individual, accused/respondent, witnesses, hearing board or appeals committee members, advisors, or investigators, is strictly prohibited. Failure to abide by this could result in disciplinary action.