

# **GENESEE COMMUNITY COLLEGE**

## **STUDENT HANDBOOK**

# **2017-2018**



**Updated ~February 2005; October 2007; October 2008; October 2009; April 2010; October 2011; May 2012; April 2014; September 2014; September 2015; September 2016; June 2017; August 2017**



## **Genesee Community College Campus Mandates, Policies, Reports, and Related Consumer Information**

Genesee Community College shall comply with all state and federal mandates. The Vice President for Student and Enrollment Services and the Vice President for Human Resources and Planning shall be co-editors of this document and shall be responsible for the publication and dissemination of this information, with the cooperation of the Dean of Students, Title IX Coordinator, Director of Institutional Research; the Athletic Director; the Director of Campus Safety; and other Genesee Community College personnel as may be needed to provide timely and accurate information.

Early in the fall of each year (or other such deadline as is established by legislation), Genesee Community College shall publish a document under the title, "Student Handbook". This single document shall contain all information related to compliance with all legislation and any new amendments and similar compliance legislation enacted subsequent to the establishment of this Policy. This document shall also be posted on the Genesee Community College website.

Genesee Community College shall notify every prospective student and employee of the College regarding the availability of this information in printed and electronic form, and shall, in the same notification, provide instruction on how copies of this information may be obtained.

Genesee Community College shall electronically notify, every current student, faculty member, and staff member of the College of the availability of this information in printed and electronic form, and shall, in the same notification, provide instruction on how copies of this information may be obtained.

Gender equity information shall also be made available, on request, to parents and coaches of high school athletes.

The attached document contains information on a wide range of College Policies and Procedures (Drug and Alcohol Abuse Prevention, Drug-Free Workplace, Bias Crimes, Directory Information, Nondiscrimination, Smoking, Title IX, and VAWA – Violence Against Women Act - Sexual Harassment, and Sexual Assault), consumer information regarding Student Financial Assistance and Tuition Liability, Refund, and Repayment of Title IV Funds Policies, and Graduation and Completion Rates. Information regarding the Family Educational Rights and Privacy Act (FERPA) are included along with the most recent Clery Act and Equity in Athletics Disclosure Act (EADA) reports.

Additional information about Genesee Community College is available through numerous publications including, but not limited to, the College Catalog and our website ([www.genesee.edu](http://www.genesee.edu)). To request a copy of any Genesee Community College publication, please call or write:

Genesee Community College  
Vice President for Student and Enrollment Services  
One College Road  
Batavia, NY 14020  
(585) 345-6848



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## **General College Policies**

### **Bias Crimes**

It is a Genesee Community College policy to protect all members of the community by preventing and prosecuting bias or hate crimes that occur within the College's jurisdiction.

Hate crimes, also called bias crimes or bias-related crimes, are criminal activity motivated by the perpetrator's bias or attitude against an individual victim or group based on perceived or actual personal characteristics, such as their race, religion, ethnicity, gender, sexual orientation, or disability. Hate/bias crimes have received renewed attention in recent years, particularly since the passage of the federal Hate/Bias Crime Reporting Act of 1990 and the New York State hate Crimes Act of 2000 (Penal law Article 485.) Copies of the New York law are available from the Office of Public Safety at Genesee Community College.

In addition to preventing and prosecuting hate/bias crimes, Genesee Community College will also take disciplinary action against any students, faculty, staff, guests, or visitors to the College who engage in bias-related activities that do not rise to the level of a crime. These activities, referred to as bias incidents, may include but not be limited to acts of bigotry, harassment, or intimidation directed at a member or group within the Genesee Community College community, based on national origin, ethnicity, race, age, religion, gender, sexual orientation, disability, veteran status, color, creed, and marital status. They may be addressed through the Genesee Community College Student Code of Conduct or other appropriate venues. Bias incidents can be reported to the Genesee Community College Campus Safety Office, to the Affirmative Action Officer, or to the Vice President for Student and Enrollment Services.

If you are a victim of, or witness to, a hate/bias crime on campus, report it to a local law enforcement agency in an emergency by calling 911; or to the Genesee Community College Campus Safety Office by calling (585) 345-6240. The Campus Safety Office will investigate and follow through with the appropriate adjudication procedures. You may also report a bias/hate crime or bias-related activity to the Affirmative Action Office of Genesee Community College, Gina Weaver, at (585) 345-6514.

Victims of bias crime or bias incidents can avail themselves of counseling and support services by contacting the Affirmative Action Officer, the Vice President for Student and Enrollment Services, or directly by making an appointment with a Genesee Community College counselor.

Please read the rest of this document for general information and up to date statistics on bias crimes and Genesee Community College security procedures.

### **Directory Information**

The Family Educational Rights and Privacy Act of 1974 prohibits the non-consensual release of personally identifiable information which is not "directory information." Currently enrolled GCC students may object to the release of certain categories of "directory information" pertaining to them



by providing written notification to the GCC records access officer/Vice President for Student and Enrollment Services by the first day of classes.

The categories of “directory information” at GCC are: name, campus and home addresses, telephone numbers, dates of attendance; and previous institutions, major field of study, degrees conferred, awards received; and past and present participation in sports and activities, physical factors (height, weight), date and place of birth.

The failure of any student to specifically object to the release of certain or all categories of directory information within the time indicated will be interpreted as approval.

### **Family Educational Rights and Privacy Act (FERPA)**

The Family Educational Rights and Privacy Act of 1974 prohibit the non-consensual release of personally identifiable information which is not “directory information.” Currently enrolled Genesee Community College students may object to the release of certain categories of “directory information” pertaining to them by providing written notification to the GCC Records Access Officer/Vice President for Student and Enrollment Services by the first day of classes. The categories of “directory information” at GCC are: name, campus and home addresses, telephone numbers, dates of attendance; and previous institutions, major field of study, degrees conferred, awards received; and past and present participation in sports and activities, physical factors (height, weight), date and place of birth. (Note: Genesee Community College does not routinely release this information. Some “directory information” might be released in conjunction with a news release about an outstanding student or athlete, for example.)

The failure of any student to specifically object to the release of certain or all categories of directory information within the time indicated will be interpreted as approval.

### **Financial Assistance**

Close to 80% of all Genesee Community College students receive some kind of financial assistance. Abundant Financial Aid information is available through our Financial Aid Office, our College Catalog, and our website. If you have questions about Financial Aid, your calls are welcomed at (585) 345-6900.

### **Graduation and Completion Rates**

Students attend Genesee Community College for a variety of reasons. Many students never intend to earn an Associates degree or transfer to another institution. They enroll to give college learning a try, to earn credentials, or to take courses in an area of particular interest. Also, many students use their local community college as a convenient place to work progressively toward a college degree, stopping out from time to time to raise children, take on new job responsibilities, etc. Additionally, the presence of many upper division SUNY and private institutions within forty minutes driving time tends to lead some students who are near degree completion to transfer before actually earning their Associates Degree. This makes community colleges unique and may affect the appearance of student “success” rates. On the other hand, many students have clear and specific goals aimed at either earning an

Associates Degree or transferring immediately to a four-year institution. In recent years, from 28% - 31.55% of our students earned Associates Degrees from 2-3 years after beginning at Genesee Community College.

## **Holds on Student Records**

When a student fails to meet an obligation (payment of a bill, parking or library fine, child care bill) or fails to fulfill the requirements of a disciplinary action, an Administrative Hold is placed on the student's record. This prevents the College from providing the student or any other party – including transfer colleges, employers, etc. with grades, transcripts, or other college records. The Administrative Hold is lifted when the student meets the specific obligation.

## **DISCRIMINATION COMPLAINT PROCEDURES (NEW)**

In accordance with Federal regulations, the New York State Human Rights Law, Section 504 of the Rehabilitation Act of 1973, and the Americans With Disabilities Act, Genesee Community College does not discriminate on the basis of age, race, color, creed, gender, religion, marital status, veteran's status, national origin, disability, or sexual orientation in educational programs, activities, admissions or employment. (Title IX, Section, 504 and ADA Coordinator Gina Weaver, Affirmative Action officer).

Admission to Genesee Community College is open to all individuals who can profit from collegiate instruction, with the exception of the following registered programs: Nursing, Paralegal, Physical Therapist Assistant, and Respiratory Care. Admission or re-admission to these programs is restricted. Additionally, the Director of Admissions may require any or all applicants (other than Accelerated College Enrollment, Advanced Studies/College Today students) who do not have a high school diploma or GED to meet the Federal definition of Ability to Benefit in order to qualify to attend, audit, or otherwise participate in classes at Genesee Community College.

### **Summary**

Genesee Community College, in its continuing effort to seek equity in education and employment and in support of federal and state anti-discrimination legislation, has adopted a complaint procedure for the prompt and equitable investigation and resolution of allegations of unlawful discrimination on the basis of race, color, national origin, religion, creed, age, sex, sexual orientation, disability, gender identity, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction. Harassment is one form of unlawful discrimination on the basis of the above protected categories. The College will take steps to prevent discrimination and harassment, to prevent the recurrence of discrimination and harassment, and to remedy its discriminatory effects on the victim(s) and others, if appropriate. Conduct that may constitute harassment is described in the Definitions section. Sex discrimination includes sexual harassment and sexual violence.

## **Applicability**

This procedure may be used by any student or employee of the College as well as third-parties who are participating in a College sponsored program or affiliated activity. Grievance procedures established through negotiated collective bargaining agreements, Academic Integrity Review Committee, Student Conduct Committee and any other procedures defined by contract will continue to operate as before. Furthermore, this procedure does not in any way deprive a complainant of the right to file with outside enforcement agencies, such as the New York State Division of Human Rights, the Equal Employment Opportunity Commission, the Office for Civil Rights of the United States Department of Education and the Office of Federal Contract Compliance of the United States Department of Labor. However, after filing with one of these outside enforcement agencies, or upon the initiation of litigation, the complaint will be referred to the Affirmative Action Officer/Title IX Coordinator for investigation. Contact information for these agencies is listed in the Other Related Information section below. More detailed information may be obtained from the Affirmative Action Officer/Title IX Coordinator.

The Affirmative Action Officer/Title IX Coordinator, shall receive any complaint of alleged discrimination, assist the complainant in the use of the complaint form, and provide the complainant with information about various internal and external mechanisms through which the complaint may be filed, including applicable time limits for filing with each agency.

Affirmative Action Office / Title IX Coordinator:

Gina M. Weaver, Associate Vice President for Human Resources  
Genesee Community College  
Human Resources, C112  
One College Rd  
Batavia, NY 14020  
(585) 343-0055, ext 6514  
gmweaver@genesee.edu

## **Procedure**

The following applies to both the informal and formal processes. This procedure provides a mechanism through which the College may identify, respond to, and prevent incidents of illegal discrimination. The College recognizes and accepts its responsibility in this regard and believes that the establishment of this internal, non-adversarial grievance process will benefit student, faculty, staff, and administration, permitting investigation and resolution of problems without resorting to the frequently expensive and time-consuming procedures of state and federal enforcement agencies or courts.

Genesee Community College reserves the right to pursue any complaint of discrimination about which it becomes aware. Based on information received, the Affirmative Action Officer/Title IX Coordinator may exercise her/his discretion and initiate a complaint on behalf of the Campus community, regardless of complainant cooperation or involvement.

The Affirmative Action Officer/Title IX Coordinator is available to assist in preparing the complaint. They will ensure that complainants are aware of their Title IX rights and available resources on and off-campus, and the right, if any, to file a complaint with local law enforcement.

Genesee Community College will comply with law enforcement requests for cooperation and such cooperation may require the campus to temporarily suspend the fact-finding aspect of an investigation while the law enforcement agency is in the process of gathering evidence. The campus will resume its investigation as soon as it is notified by the law enforcement agency that it has completed the evidence gathering process. Genesee Community College will implement appropriate interim steps during the law enforcement agency's investigation period to provide for the safety of the victim(s) and the campus community.

The complainant is not required to pursue the College internal procedures before filing a complaint with a state or federal agency. In addition, if the complainant chooses to pursue the College internal procedure, the complainant is free to file a complaint with the appropriate state or federal agency at any point during the process.

During any portion of the procedures detailed hereafter, the parties shall not employ audio or video taping devices. Complaints and investigations will be kept confidential to the extent possible.

Retaliation against a person who files a complaint, serves as a witness, or assists or participates in any manner in this procedure is strictly prohibited and may result in disciplinary action. Retaliation is an adverse action taken against an individual as a result of complaining about unlawful discrimination or harassment, exercising a legal right, and/or participating in a complaint investigation as a third-party witness. Participants who experience retaliation should contact the campus Affirmative Action Officer/Title IX Coordinator.

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### Complaint Consultation and Review

Any student or employee, or any third party may consult with the Affirmative Action Officer/Title IX Coordinator regarding potential discrimination or harassment. This initial contact may occur by telephone, e-mail, or in person--the latter being preferred. The Affirmative Action Officer/Title IX Coordinator will assist the individual in understanding the nature of the incident, the complaint process, resources available to the individual, and other options to resolve the issue. Assistance will be available whether or not a formal complaint is contemplated or even possible.

It is the responsibility of the Affirmative Action Officer/Title IX Coordinator to respond to all such inquiries, reports and requests as promptly as possible and in a manner appropriate to the particular circumstances. This response may include interim measures to protect the parties during the investigation process. Interim measures will not disproportionately impact the complainant. Interim measures for students may include but is not limited to information about how to obtain counseling and academic assistance in the event of sexual assault, and steps to take if the accused individual lives on campus and/or attends class with the complainant. Interim measures involving employees in collective bargaining units should be determined in consultation with the Executive Vice President for Planning and Institutional Effectiveness.

Employees who observe or become aware of acts of discrimination or harassment, including sex discrimination, sexual harassment and sexual violence, should report this information to the Affirmative Action Officer/Title IX Coordinator. If the complaints or concerns are reported to and/or observed by an administrator, manager or supervisor they shall be immediately referred to the Affirmative Action Officer/Title IX Coordinator. Employees with Title IX compliance responsibilities and/or employees who have the authority to take action to redress the harassment must report any complaints to the Affirmative Action Officer/Title IX Coordinator.

Complaints of sexual violence will not be resolved by using mediation, but instead must be referred immediately to the campus Affirmative Action Officer/Title IX Coordinator. The complainant will not be required to resolve the problem directly with the respondent in cases of sex discrimination.

#### Filing Complaints and Time Limits

Although in rare instances verbal complaints may be acted upon, the procedures set forth here rest upon the submission of a written complaint that will enable there to be a full and fair investigation of the facts. It is the complainant's responsibility to be certain that any complaint is filed within the applicable time limit.

If the complainant brings a complaint beyond the period in which the complaint may be addressed under these procedures, the Affirmative Action Officer/Title IX may terminate any further processing of the complaint or direct the complainant to an alternative forum (Appendix A). Complaints of sex discrimination brought beyond the 90-day period will be tracked and investigated to the extent possible consistent with the campus Title IX obligations, including the duty to spot patterns and address systemic issues. Additionally, the Affirmative Action Officer/Title IX Coordinator will ensure that complainants in sex discrimination cases are made aware of their Title IX rights, available remedies and resources on and off-campus, interim remedies, and the right, if any, to file a complaint with local law enforcement.

All complaints must be submitted on the forms provided by the College. The Charge of Discrimination form will be used for both the initiation of complaints under the informal procedure and the conversion of the complaint to the formal procedure.

The Affirmative Action Officer/Title IX Coordinator is available to assist in preparing the complaint. They will ensure that complainants are aware of their Title IX rights and available resources on and off-campus (such as counseling, local rape crisis center), and the right, if any, to file a complaint with

local law enforcement. Campuses will comply with law enforcement requests for cooperation and such cooperation may require the campus to temporarily suspend the fact-finding aspect of an investigation while the law enforcement agency is in the process of gathering evidence. The campus will resume its Title IX investigation as soon as it is notified by the law enforcement agency that it has completed the evidence gathering process. Genesee Community College will implement appropriate, reasonable, and available interim steps during the law enforcement agency's investigation period to provide for the safety of the complainant and the campus community.

As soon as reasonably possible after the date of filing of the complaint, the Affirmative Action Officer/Title IX Coordinator will mail a notice of the complaint and a copy of the complaint to the Respondent(s).

*Employees:* Employees must file a written complaint with the Affirmative Action Officer/Title IX Coordinator within 90 calendar days following the alleged discriminatory act or the date on which the complainant first knew or reasonably should have known of such act.

*Students:* Students must file a complaint within 90 calendar days following the alleged discriminatory act or 90 calendar days after a final grade is received, for the semester during which the discriminatory acts occurred, if that date is later.

#### Complaint Contents

The complaint shall contain:

1. The name, local and permanent address(es), telephone number(s), and status (faculty, staff, student, third party) of the complainant.
2. A statement of facts explaining what happened and what the complainant believes constituted the unlawful discriminatory acts in sufficient detail to give each Respondent reasonable notice of what is claimed against him/her. The statement should include the date, approximate time and place where the alleged acts of unlawful discrimination or harassment occurred. If the acts occurred on more than one date, the statement should also include the last date on which the acts occurred as well as detailed information about the prior acts. The names of any potential witnesses should be provided.
3. The name(s), address(es) and telephone number(s) of the respondent(s), i.e., the person(s) claimed to have committed the act(s) of unlawful discrimination.
4. Identification of the status of the persons charged whether faculty, staff, or student.
5. A statement indicating whether or not the complainant has filed or reported information concerning the incidents referred to in the complaint with a non-campus official or agency, under any other complaint or complaint procedure. If an external complaint has been filed, the statement should indicate the name of the department or agency with which the information was filed and its address.
6. A description of any corrective or remedial action that the complainant would like to see taken.
7. Such other or supplemental information as may be requested.
8. Signature of complainant and the date complaint signed

#### Informal Resolution

If a complainant elects to have the matter dealt with in an informal manner, the Affirmative Action Officer/Title IX Coordinator will attempt to reasonably resolve the problem to the mutual satisfaction of the parties.

This informal resolution process is much like mediation. During the process, options for resolving an individual's specific issue are discussed. Informal resolution options include, but are not limited to: helping the complainant communicate directly with the alleged offender; working with the appropriate department/unit to modify the situation in which the offending conduct occurred; arranging and attending a meeting between the alleged offender and the appropriate administrator to discuss the requirements of the college's policy on discrimination. Informal resolution means that no formal investigation occurs and disciplinary action is not required to remedy the situation.

An individual may opt to pursue the formal process at any time. However, Affirmative Action Officer/Title IX Coordinator may institute a formal process at any time if it determines that the conduct that is described in the complaint is severe, or part of a pattern of persistent misconduct.

If a resolution satisfactory to both the complainant and the respondent is reached within 24 calendar days from the filing of the complaint, through the efforts of the Affirmative Action Officer/Title IX Coordinator, the officer shall close the case, sending a written notice to that effect to the complainant and respondent. The written notice, a copy of which shall be attached to the original complaint form in the officer's file, shall contain the terms of any agreement reached by complainant and respondent, and shall be signed and dated by the complainant, the respondent and the Affirmative Action Officer/Title IX Coordinator.

If the Affirmative Action Officer/Title IX Coordinator is unable to resolve the complaint to the mutual satisfaction of the complainant and respondent within 24 calendar days from the filing of the complaint, the Affirmative Action Officer/Title IX Coordinator shall so notify the complainant. The Affirmative Action Officer/Title IX Coordinator shall again advise the complainant of his or her right to proceed to the next step internally and/or the right to separately file with appropriate external enforcement agencies.

The time limitations set forth above may be extended by mutual agreement of the complainant and respondent with the approval of the Affirmative Action Officer/Title IX Coordinator. Such extension shall be confirmed in writing by the complainant and respondent. The Affirmative Action Officer/Title IX Coordinator will also have the discretion to reasonable extend the deadlines if an investigation is deemed complex.

The complainant may elect to proceed to the formal resolution procedure at any time after the Charge of Discrimination form is filed.

#### Formal Resolution

The formal complaint proceeding is commenced by the filing of a complaint form as described above. The 90 day time limit also applies to the filing of a formal complaint. If the complainant first pursued

the informal process and subsequently wishes to pursue a formal complaint, he/she may do so by checking the appropriate box, and signing and dating the complaint form.

*Notice to Parties:* Upon receipt of a complaint, the Affirmative Action Officer/Title IX Coordinator will provide an initialed, signed, date-stamped copy of the complaint to the Complainant. As soon as reasonably possible after the date of filing of the complaint, the Affirmative Action Officer/Title IX Coordinator will mail a notice of complaint and a copy of the complaint to the Respondent(s). Alternatively, such notice with a copy of the complaint may be given by personal delivery, provided such delivery is made by the Affirmative Action Officer/Title IX Coordinator (or designee) and, that proper proof of such delivery, including the date, time and place where such delivery occurred is entered in the records maintained by or for the Affirmative Action Officer/Title IX Coordinator.

The Affirmative Action Officer/Title IX Coordinator shall review all relevant information, interview pertinent witnesses and, at their discretion, hear testimony from and bring together the complainant and the respondent, if desirable. Both the complainant and the respondent(s) shall be entitled to submit written statements or other relevant and material evidence and witnesses, and to provide rebuttal to the written record compiled by the tripartite panel. Complainant has the right to request alternative arrangements if the complainant does not want to be in the same room as the accused. These alternative arrangements must be consistent with the rights of the accused, and must enable both parties and to hear each other during any hearing.

Within 15 calendar days the Affirmative Action Officer/Title IX Coordinator shall submit a summary of its findings and recommendation(s) for further action, to the President or their designee. The burden of proof in cases of sex discrimination is preponderance of the evidence. If the President is the respondent, the findings and recommendation shall be submitted to the Board of Trustees. The Affirmative Action Officer/Title IX Coordinator will also send, concurrently, copies of both the summary of its findings and recommendation(s) to the Complainant, and Respondent.

Within 10 calendar days of receipt of the written summary, the President or designee shall issue a written statement to the complainant and respondent, indicating what action the College proposes to take. The action proposed by the President or designee, may consist of:

- a. A determination that the complaint was not substantiated.
- b. A determination that the complaint was substantiated.
  - i. For employees (including student employees) not in a collective bargaining unit: The President or designee may take such administrative action as he/she deems appropriate under his/her authority as the chief administrative officer of the college, including but not limited to termination, demotion, reassignment, suspension, reprimand, or training.
  - ii. For students: The President may determine that sufficient information exists to refer the matter to the student judiciary or other appropriate disciplinary panel for review and appropriate action under the appropriate student conduct code. For examples of sanctions, please see the relevant section of the applicable student code of conduct.
  - iii. For employees in collective bargaining units: The President or designee may determine that sufficient information exists to refer the matter to his/her designee for investigation and disciplinary



action or other action as may be appropriate under the applicable collective bargaining agreement. The disciplinary process and potential outcomes are described in the applicable collective bargaining agreements.

The action of the President shall be final. If the President is the respondent, the Board of Trustees shall issue a written statement indicating what action they propose to take. The Board of Trustees' decision shall be final for purposes of this discrimination procedure.

*Notice of outcome:* No later than 7 calendar days following issuance of the statement by the president or the chancellor, as the case may be, the Affirmative Action Officer/Title IX Coordinator shall issue a letter to the complainant and to the respondent(s) advising them that the matter, for purposes of this discrimination procedure, is closed.

*Time limitations:* The time limitations set forth above may be extended by mutual agreement of the complainant and respondent with the approval of the Affirmative Action Officer/Title IX Coordinator. Affirmative Action Officer/Title IX Coordinator will also have the discretion to reasonably extend the deadlines if an investigation is deemed complex. Such extension shall be confirmed in writing.

*External Agencies:* If the complainant is dissatisfied with the President's decision, the complainant may elect to file a complaint with one or more state and federal agencies. The campus Affirmative Action Officer/Title IX Coordinator will provide general information on state and federal guidelines and laws, as well as names and addresses of various enforcement agencies.

## **Definitions**

**Harassment on the Basis of Protected Characteristic(s) other than Sex/Gender** – harassment based on race, color, age, religion, national origin, disability, sexual orientation or other protected characteristics is oral, written, graphic or physical conduct relating to an individual's protected characteristics that is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the educational institution's programs or activities.

**Sex Discrimination** – behaviors and actions that deny or limit a person's ability to benefit from, and/or fully participate in the educational programs or activities or employment opportunities because of a person's sex. This includes but is not limited to sexual harassment, sexual assault, sexual violence by employees, students, or third parties. Employees should report sexual harassment that they observe or become aware of to the Affirmative Action Officer/Title IX Coordinator.

**Sexual assault** is defined as a physical sexual act or acts committed against a person's will and consent or when a person is incapable of giving active consent, incapable of appraising the nature of the conduct, or incapable of declining participation in, or communicating unwillingness to engage in, a sexual act or acts. Sexual assault is an extreme form of sexual harassment.\* Sexual assault includes what is commonly known as "rape," whether forcible or non-forcible, "date rape" and "acquaintance rape." Nothing contained in this definition shall be construed to limit or, conflict with the sex offenses

enumerated in Article 130 of the New York State Penal Law, which shall be the guiding reference in determining if alleged conduct is consistent with the definition of sexual assault.

**Sexual Harassment in the Educational Setting** – unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment of a student denies or limits, on the basis of sex, the student’s ability to participate in or to receive benefits, services, or opportunities in the educational institution’s program.

**Sexual Harassment in the Employment Setting** – unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature when any of the following occurs:

- Submission to such conduct is made a term or condition of an individual’s continued employment, promotion, or other condition of employment.
- Submission to or rejection of such conduct is used as a basis for employment decisions affecting an employee or job applicant.
- Such conduct is intended to interfere, or results in interference, with an employee’s work performance, or creates an intimidating, hostile, or offensive work environment.

**Sexual Violence** - physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent.

**Preponderance of the Evidence** – the standard of proof in sexual harassment and sexual assault cases, which asks whether it is “more likely than not” that the sexual harassment or sexual violence occurred. If the evidence presented meets this standard, then the accused should be found responsible.

## **On-Campus Parking**

### *Regulations*

Parking is free at Genesee Community College. However, all students, faculty, and staff must obtain a parking sticker at the Campus Safety Office, and display it in the rear driver’s side window of their vehicle. In the event of an emergency involving a vehicle, the stickers help security to identify the owner. Parking is free for visitors, too. However, all visitors should sign the guest book at the information desk to the left inside of the main entrance on the Batavia Campus.

The college’s parking regulations are designed to provide safe, accessible and convenient parking. They are summarized here:

Obtain and display a parking sticker in each vehicle you park on campus.

Park between two yellow lines in one of the two public lots on the west side of the campus. Do not park in fire lanes, fire exits, hydrants, side walks, driveways, loading zones, on the grass, in the circle in front of the Stuart Steiner Arts Center, or at an expired meter in the short-term parking area.

Park motorcycles only in designated motorcycle parking spots.

Obtain a “handicapped parking permit” from your town, village or city clerk’s office if you have a disability and wish to park in a handicapped spot. Do not park in spaces marked “reserved,” “no parking,” or “handicapped” unless you have a special permit to do so.

Do not park anywhere on campus between midnight and 6:00 a.m. unless you notify the Campus Safety Office in advance.

Maintain a speed of less than 20 miles per hour on campus.

Obey traffic signs, signals and pavement markings.

Call the Campus Safety Office if you encounter mechanical problems with your vehicle or wish to be escorted to your vehicle at any time.

Do not give or sell your parking sticker to anyone.

### **Parking Fines**

<b>Violation</b>	<b>Fine</b>
Failure to obtain or display parking sticker	\$25
Parking in handicapped space without permit	\$50
Parking in reserved space or “no parking” zone	\$25
Obstructing vehicular or pedestrian traffic; double parking	\$25
Parking on sidewalk, grass, along roadways	\$25
Parking at expired meter, overnight, or in circle, fire lane, or dock	\$25

### *Appeals*

If you receive a parking violation notice, you have the right to appeal the notice and the fine. However, you must initiate the appeal within ten days from the time the parking violation notice is issued. You must pay the fine when you file the appeal form; the fine will be refunded if the appeal is upheld.

Generally, the only basis for an appeal is that the cited regulations were not violated, or the parking violation notice was issued in error. You may obtain a copy of the full appeals process and the full parking regulations policy from the Campus Safety Office.

### **Plagiarism & Academic Dishonesty**

Plagiarism is the dual act of presenting and claiming the words, ideas, data, or creations of others as one's own. Plagiarism may be intentional - as in a false claim of authorship - or unintentional - as in a failure to document information sources using MLA, APA, CBE, or other style sheets or manuals adopted by instructors in the College. Presenting ideas in the exact or nearly exact wording as found in

primary or secondary sources constitutes plagiarism, as does patching together paraphrased statements without in-text citation. Each faculty member will determine appropriate responses to plagiarism. Disciplinary action resulting from confirmed instances of plagiarism and/or cheating may include receipt of a failing grade on an assignment or the course, removal of a student from a class or expulsion of a student from the College. The term “cheating” includes, but is not limited to:

Use of any unauthorized assistance in taking quizzes, tests, or examinations

Dependence upon the aid of sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments; or

The acquisition, without permission, of tests or other academic material belonging to a member of the College faculty or staff.

As outlined in the Student Code of Conduct, penalties for plagiarism or cheating include, but are not limited to: receipt of a failing grade, suspension, or expulsion from the College.

## **Smoking**

Genesee Community College complies with prevailing county and/or state regulations regarding smoking on the College Campus, including the College’s off-campus centers. Smoking is not allowed inside any College facility. Furthermore, smoking will not be permitted within 50 feet of the main entrance of the College.

## **Student Behavior on Campus**

Genesee Community College recognizes the need to maintain policies and procedures related to student rights and responsibilities, in order to guide student actions and define the penalties which are to be imposed when the College’s Code of Conduct is violated. Genesee Community College, through these policies and procedures, seeks to establish in its students a sense of responsibility to themselves and to others who are citizens of the total College community. It is the College’s expectation that, while here, all students will take into consideration other individuals and their rights to an environment that is conducive to academic achievement and personal growth.

Attendance at Genesee Community College is a privilege and not a right. Genesee Community College operates on the assumption that the best environment for learning is an environment in which students, faculty, and staff treat one another with respect and courtesy. Students are expected to acquaint themselves with the syllabus of each class they take, and carefully note each individual instructor’s rules and procedures related to attendance, grading, due dates, and classroom courtesy. The College has the right and responsibility to take appropriate action when student conduct directly and significantly interferes with the College’s educational mission and the rights of others to pursue their educational objectives in an environment conducive to learning.

None of the above, however, is meant to diminish the value which the College places upon the rights of students to peaceful assembly, free inquiry, free speech, and due process. The purpose of the College’s policies and procedures regarding student conduct is not to prevent or restrain controversy

and dissent, but to prevent abuse of the rights of others and to maintain that public order appropriate to a college campus and an environment in which all are free to learn.

It shall be the responsibility of all students to familiarize themselves with Genesee Community College's Statement of Student Rights and Responsibilities (Code of Conduct). This responsibility constitutes an important part of the aforementioned due process guaranteed to all students. The Code of Conduct is available on the Genesee Community College website.

<http://www.genesee.edu/index.cfm/general/dspArticle/academics.handbook/default.cfm>

## Student Records

In general, GCC students have access to their educational records, have the right to challenge the content of these records, and should expect that their records, with the exception of "directory information," will be released only upon their request. For additional information contact the Office of the Vice President for Student and Enrollment Services.

## Student Tuition Liability, Refund, and Repayment of Title IV Funds Policies

The SUNY Board of Trustees has approved a resolution standardizing the refund policy for all New York State community colleges as of the fall semester 1998 establishing the following schedule of liability:

### *Student Tuition Liability - Regular Fall/Spring Semester*

Time of Withdrawal	Liability
Prior to first day	0%
During first week	25%
During second week	50%
During third week	75%
After third week	100%

If you are enrolled in courses that meet for an eight-week (or shorter) term instead of a full semester, then the following schedule applies:

### *Student Tuition Liability - Regular Summer Term*

Time of Withdrawal	Liability
Prior to first day	0
During first week	40%
During second week	70%
During third week	100%
After third week	100%

*Student Tuition Liability - Courses Eight Weeks or Less in Duration*

Time of Withdrawal	Liability
Prior to first day	0%
During first week	75%
During second week	100%
During third week	100%
After third week	100%

*Student Tuition Liability - Non-credit Courses Less Than a Full Semester in Duration*

Time of Withdrawal	Liability
Withdrawal before the first day or first class meeting	0%
Withdrawal before 10% of class time has elapsed	75% of tuition and 75% of fees
Withdrawal after 10% of class time has elapsed	100%

A tuition liability schedule for any term of any length other than those listed in the schedule above shall be similarly prorated.

No money shall be refunded unless written notice of withdrawal is submitted to the registrar.

*Exceptions to Student Tuition Liability*

1. There shall be no tuition/fee liability for a student who withdraws to enter military service prior to the end of an academic term for those courses in which the student does not receive academic credit.
2. A student who is dismissed for academic or disciplinary reasons prior to the end of an academic term shall be liable for all tuition and fees due for that term.
3. Students who received Veterans Administration benefits under Public Law 550 (82<sup>nd</sup> Congress— Act of July 16, 1952) and enrolled in a non-accredited program may not be charged on withdrawal in excess of the approximate prorated portion of the total.
4. Military personnel withdrawing from any program or term because of documented changes of assignment beyond their control shall be deemed to have incurred no liability for tuition and fees.

*Repayment of Title IV Funds Policy*

1. The amount of Title IV financial aid\* that a student must repay is determined by using the Federal Formula for Return of Title IV funds as specified in Section 484B of the Higher Education Act. The amount of federal Title IV financial aid assistance that the student earns is determined on a pro-rata basis. Once the student has completed more than 60 percent of the payment period, all financial aid assistance is considered to be earned.

- A. Percent earned equals Number of calendar days completed up to the withdrawal date\*\* divided by the total calendar days in the payment period with an allowance for any scheduled breaks that are at least five days long.
  - B. Percent unearned equals 100 percent minus percent earned
2. When a student has received federal financial aid in excess of earned aid, then the school returns the lesser of:
- A. Institutional charges multiplied by the unearned percentage, or
  - B. Title IV federal financial aid disbursed, multiplied by the unearned percentage
3. When a student has received federal financial aid in excess of earned aid, then the student:
- A. Returns any remaining unearned aid not covered by the school.
  - B. Repays any loan funds in accordance with the terms of the promissory note (that is, scheduled payments to the holder of the loan over a period of time.)
  - C. Returns any grant amount the student has to repay (considered a grand overpayment and arrangements must be made with the schools or Department of Education to repay the funds).
4. Unearned Title IV federal financial aid shall be repaid to the following programs in the following order:
- A. Federal Unsubsidized Stafford Loan
  - B. Federal Subsidized Stafford Loan
  - C. Federal Parent Loan for Undergraduate Students (PLUS)
  - D. Federal Pell Grant
  - E. Federal Supplemental Education Opportunity Grant
  - F. Other Title IV Programs
5. The student is billed for funds the College is required to repay. The Business Office bills the student; and any account that is not paid results in restrictions to the student's school amount and referral to the College's collection agency.

The tuition and fees, procedures, and policies listed above supersede those published previously and are subject to change at any time.

\*Federal Title IV financial aid includes the federal Pell Grant, Federal Supplemental Educational Opportunity Grant (FSEOG), federal Stafford Loans (Subsidized and Unsubsidized), federal Parent Loan for Undergraduate Students (PLUS), and other Title IV Programs.

\*\*Withdrawal date is defined as the actual date the student begins the institution's withdrawal process, the student's last date of academic-related activity, or the midpoint of the payment period for the student who leaves without notifying the institution.

The College will not dismiss or waive a student liability created by a refund issued to a student based on financial aid when such aid is subsequently cancelled or reduced.

### *Tuition Refund Appeals Process*

Students who complete an official withdrawal form will receive a refund of tuition and fees in accordance with the “Student Tuition Liability” schedule as outlined in the Genesee Community College catalog. Students who fail to complete an official withdrawal form will not be eligible to receive a tuition refund.

Students who feel they have extenuating circumstances which justify an exception to the SUNY refund policy (e.g., medical incapacitation, death in immediate family) may appeal for special consideration to the vice president of finance and operations. Such appeals must be submitted in writing with the Tuition Refund Appeal Form and supporting documentation, and be received no later than 120 days after the end of the term for which the tuition liability was incurred. Approved refunds will be limited to 75 percent of tuition and fees.

The College will not consider an appeal for a term in which the student has received or will receive credit. The College will not dismiss or waive a liability created by a refund issued to a student based on financial aid when such aid is subsequently cancelled or reduced.

Students who remit partial payment and/or request a deferment based on pending financial aid, and who are not administratively dropped from courses because of same, will be financially obligated to the College for the unpaid balance, regardless of attendance.



## Alcohol and Drug Prevention Policies and Information

The Drug-Free Schools and Communities Act, signed by President Bush on December 12, 1989, requires all colleges to inform students and employees of the health risks, legal sanctions, programs of help and institutional policies regarding the illicit use of drugs and the abuse of alcohol.

**Genesee Community College's policy concerning illegal alcohol and drug use is governed by New York State and federal laws. Students should be aware of the following:**

### **Policy on Alcohol**

Unauthorized possession, consumption, and/or distribution of alcoholic beverages on campus or at off-campus College functions is forbidden. Any event held on campus where alcohol will be served, irrespective of whether it is a College-sponsored event, must have the approval of the president or his/her designee.

An approved social function shall be any event so deemed by the formal approval of the president or his/her designee. The president is authorized to establish procedures for determining the appropriateness of specific requests for the use of alcoholic beverages for on and off campus, for all College endorsed and/or approved social functions.

### **Alcohol & Drug Addiction - Identifying Those in Need**

#### *Alcoholism*

- No two alcoholics begin exactly alike. One thing all alcoholics seem to have in common is that, as time passes, the drinking gets worse.
- There is no such thing as being "a little bit alcoholic."
- Because the illness progresses in stages, some alcoholics show more extreme symptoms than others, some none at all; but once problem drinkers cross over the line into alcoholism, they cannot turn back.
- On an average, one out of every ten employees is an alcoholic.
- Every problem drinker adversely affects an average of four other persons in his or her family, and more than one friend, as well as business associates.
- Half of all fatal accidents occurring on the roads today involve a drinking driver.
- Chronic brain injury caused by alcohol is second only to Alzheimer's Disease as a known cause of mental deterioration in adults.
- Alcoholism ranks among cancer, mental illness, and heart disease as one of the four major national health threats.
- Children of alcoholics have a four times greater risk of developing alcoholism than children of non-alcoholics.
- There is no known cure for alcoholism, but an alcoholic can recover and there are many resources that can help.

## *Drug Addiction*

- Even for the hardest working student or employee, it is hard to succeed when the most important thing in your life is to stay high.
- The addict will push family, friends, teachers, and employers farther away, until there is nothing left of the individual who once was loved and respected. With some drugs, just one experiment may lead to addiction.
- What you may see in an addict or developing user is weight loss, loss of interest in physical appearance or grades, chronic runny nose, frequent respiratory infections. These are symptoms of someone using cocaine, or rock cocaine, but they do not necessarily all occur at the same time.
- What you cannot see happening to the “crack” or cocaine user is the dramatic rise in blood pressure, heart rate, and temperature. The arteries narrow, restricting blood flow to the heart. The heart may beat abnormally and ineffectively. The result may be a heart attack or death.
- To addicts, money buys drugs. Food, rent, grades, mortgage or car payments, general health, spouses, friends, children, and the law do not really matter.
- Sexual diseases are frequently transmitted by drug addicts. Addicts are not known to be consistently honest and concerned about others’ welfare. Many sexually transmitted diseases have cures, some may require long-term medication. Most are not fatal, except AIDS.
- Reduced judgment while drinking alcoholic beverages may lead to experimenting with illegal and dangerous drugs. Addiction, significant health hazards, and serious accidents could result in permanent physical or mental damage, even death.
- Tobacco is a drug. Long-term use is linked to lung cancer, heart disease and emphysema. For some heavy and long-term smokers, quitting smoking can be as difficult as quitting heroin.

## *Help, Resources, and Confidentiality*

### Genesee Community College Health Center

The health center provides health counseling and confidential referral. Generally the health center is open Monday through Friday from 9:00 a.m. to 3:00 p.m. Call (585) 345-6835.

### Genesee Community College Counselor

Counselors will meet privately and confidentially with employees and students to assess their concerns, referring them to an appropriate service, professional, or agency when necessary. If referral is determined to be the best course of action, residents of Genesee County will be referred to the Genesee Council on Alcoholism and Substance Abuse, Inc. If you are a resident of another county, the staff will recommend the best agency in that county.

Students whose permanent residence is distant from GCC will be referred to the Genesee Council of Alcoholism and Substance Abuse, Inc. Discussions, diagnosis, and records are protected by professional standards of confidentiality and do not become part of the student’s folder. Call (585) 343-0055 ext. 6219.

### EAP (for GCC Civil Service Employees)

The Employee Assistance Program (EAP) is a service of Genesee Council on Alcoholism and Substance Abuse, Inc., which is located at 30 Bank Street in Batavia. As an employee of GCC, discussions, diagnosis and records are protected by professional standards of confidentiality. Records do not become part of the personnel folder or extension file. Call (585) 343-1124.

Genesee Council on Alcoholism and Substance Abuse, Inc.

Genesee Council on Alcoholism and Substance Abuse, Inc. offers initial evaluation, counseling, and referral for employees of Genesee Community College and their families dealing with a variety of problems, such as:

- Alcohol abuse or alcoholism     Drug abuse (legal or illegal substance)
- Stress and life crises                       Emotional problems (depression, anxiety, etc.)
- Marital problems

#### RAP

RAP is an emergency service, staffed with caring people who are trained to direct you toward the help and you may need, when the intensity of the moment requires immediate attention. Wherever you are, RAP can help. The RAP Crisis Hotline is available twenty-four hours a day. Call (585) 343-1212, or toll-free 1-800-359-5727.



## Policy On Drug-Free Workplace And Campus

Genesee Community College endorses the efforts of federal, state, and local governments to eliminate drug abuse. The College complies with the federal Drug-Free Workplace Act of 1988 which includes the following policies:

1. The unlawful manufacture, distribution, dispensing, possession, or use of an illegal controlled substance by employees or students is prohibited in and on Genesee Community College owned or controlled property.
2. No employee will report to work while under the influence of an illegal controlled substance.
3. Violation of these rules by an employee will be reason for mandatory evaluation and treatment for substance use disorder and/or disciplinary action up to and including termination.
4. Violation of these rules by a student will be reason for mandatory evaluation and treatment for a substance use disorder and/or for loss of financial aid and/or for disciplinary action up to and including suspension or permanent expulsion from the College.

The President has been authorized to establish such procedures as are necessary to implement this policy, and to make such reports as are required.

### *New York State and Federal Laws Concerned with Alcohol and Drugs*

- Effective January 1, 1990, persons under the age of 21 are prohibited from possessing any alcoholic beverages with intent to consume the beverage. Violators are subject to a fine.
- Effective November 1, 1989, persons under the age of 21 who present falsified or fraudulently altered proofs of age for the purpose of purchasing or attempting to purchase alcoholic beverages are guilty of a violation, punishable by a fine of up to \$100.00 and a community service requirement of up to 30 hours.
- Effective October 19, 1989, a person under the age of 21 who presents an altered New York State driver's license for the purpose of illegally purchasing an alcoholic beverage may be subject to a suspension of that driver's license for up to 90 days and may also be required to apply to the Department of Motor Vehicles for a restricted use driver's license following the suspension.
- All controlled substances that are illegally possessed, grown, manufactured, distributed, or sold by an individual or group are subject to arrest and conviction. Depending on the drug and the particulars of the arrest, there are many penalties that may include mandatory fines and jail sentences. An individual convicted of an illegal drug offense may have a permanent police record that could significantly reduce and impair the individual's personal rights and quality of life. GCC Security will confiscate all illegal substances and will file police reports with the appropriate law enforcement agencies.



## Guidelines for Students Who Feel They Are Being Sexually Harassed

- Say no! Say it firmly, without smiling, without apologizing. Ignoring the situation will seldom make it go away. Keep a record of what occurred. Include direct quotes, witnesses, and patterns of harassment. Save any cards or letters sent to you, however innocuous they might seem.
- Take action. Talk to Student Activities' staff (ext. 6261), college counselors (ext. 6232), the Vice President for Student and Enrollment Services (ext. 6219), or a faculty member with whom you are comfortable. You can talk to these people as your first step in dealing with the situation or after you have tried to resolve it yourself.
- Explore additional options and/or file a complaint with Gina Weaver, Affirmative Action officer (ext. 6514). If you file a complaint all proceedings will be private and not open to the public. No person will be adversely treated because of filing a complaint.

## **Guidelines for Students Who Feel They Are Being Sexually Assaulted**

- Get to a safe place as soon as you can
- Call 911
- Contact the Genesee Community College Office of Public Safety
- Try to preserve all physical evidence; do not bathe, douche, or change your clothes

Remember, assaults – sexual or otherwise – are crimes; they are not the victims' fault. Victims have the right to pursue adjudication of crimes that occur on the Genesee Community College campus through criminal courts and/or through the College's internal disciplinary process (under the Code of Conduct). Genesee Community College Public Safety officers are trained to assist with prosecution in both systems.

### **Information and Support**

If you are the victim of sexual assault or sexual misconduct, you may seek support services as well as the assistance described above through the College's personal counselors or through the Office of the Vice President for Student and Enrollment Services.

### **Educational Programs**

Educational programs to promote awareness of rape, acquaintance rape, and sex offenses are presented to the campus community through literature, informational films, and workshops (e.g., held at College Village but sponsored by Student Activities and open to all students.)

### **If You Are Raped or Sexually Assaulted**

#### **Know Your Rights**

Recognize that you have choices and rights. Knowing in advance what to expect emotionally and what your legal rights and options are may aid you in dealing with a terrible situation. Your choices include pressing charges or reporting the assault anonymously. Many victims feel that reporting the crime and pressing charges help them regain control of their lives and feel less like victims. Your report may prevent it from happening to someone else.

#### **Seek Support**

Any sexual assault results in tremendous trauma. Get all the support you need as quickly as possible. Many victims feel ashamed or embarrassed; some think no one will believe them. Still others don't think what has happened is rape because it occurred on a date with a known person. Remember, if you didn't say yes, it is rape.

#### **Think**

Instinctively, many victims want to become clean and wash away any lingering evidence of their abuser or of the ordeal. Often victims take showers and throw away their clothing after being sexually assaulted. Should you wish to press charges, you'll want to curb these instincts. Physical and medical evidence of rape (verified by a physician) is critical to the prosecution process.

#### **What Is Sexual Assault?**



Rape and sexual assault are violent or unwanted activities committed through sexual acts. They encompass any sexual activity inflicted upon a person that is unwanted or not consented to, by that person. Lack of consent is the common element in all rapes or all forms of sexual assault.

Sexual offenses include all unwanted sexual intercourse, deviate sexual intercourse and sexual abuse by sexual contact (the touching of a person's sexual or intimate parts either directly or through clothing for the purpose of sexual gratification), and aggravated sexual abuse.

Sexual offenses in New York State are classified as felonies and may include prison terms of a minimum of 18 months up to a maximum of nine consecutive lifetimes. New York State penal laws regarding sex offenses and their required punishments are determined by the following factors—lack of consent, forcible compulsion and injuries, age of victim, inability to resist due to age, and/or mental or physical limitations.

### **Myths of Rape**

- Rape is an expression of sexual desire.
- Victims are to blame in some way for the assault such as provocative dress, walking alone at night, or partying.
- Men can't stop themselves when they are sexually aroused.
- Rape, sexual assault, and child sexual abuse usually are committed by strangers.
- It's no big deal if a person is forced to have sex with someone she or he knows (for example, a friend, date, or spouse)—and it isn't really rape.
- If the victim was drunk or drugged, she or he was "asking for it."
- Most rapists rape only one time.

### **Facts**

- Rape is an expression of hostility and aggression with sex as the vehicle.
- The rapist is always responsible for having committed the rape. Regardless of the victim's appearance, behavior, judgment or previous actions, the victim is not responsible for the rape.
- Men are capable of, and responsible for, controlling both their minds and their bodies, just as women are.
- Studies show rape, sexual assault, and child sexual abuse are most often committed by family members, friends, or acquaintances of victims.
- Sexual intercourse forced by an acquaintance or date is rape. It is especially traumatic because the victim's trust in others and her or his own judgment can be seriously damaged.
- Inability to give consent is not "asking for it." In New York State, forcing sexual contact on a woman or man is against the law.
- Most rapists rape again, and again, and again—until caught.

### **Staying Safe On and Off Campus**

Most rapes and sexual assault incidents occur in surroundings familiar to the victim. Studies indicate that 85 percent of rapes might have been avoided if the victims had been more aware, better prepared and had used better precautions. Here are some tips which might help you:

### **Be Aware of Your Environment**

It is difficult to recognize a problem developing under the influence of alcohol and drugs. Drinking and taking drugs may impair your judgment, your ability to speak, and your reaction time. You may lose a critical advantage in avoiding a rape or sexual assault because you couldn't think and react quickly.

### **Trust Your Instincts**

If you sense danger, trust your instincts and get out. If you begin to feel uncomfortable on a date, trust yourself, and get out. Be afraid for your body. Don't be embarrassed to make a scene. You are not the one whose behavior is unacceptable.

### **Look and Act Alert**

Rapists rely on the element of surprise and seek victims who look vulnerable. Walk with determination, confidence and speed. Always keep one hand free; a person with both hands occupied appears more vulnerable. Body language can be important in avoiding rape. Slumped shoulders, wandering or looking lost or preoccupied may provide a rapist with his next victim.

### **Avoid Dangerous Places**

Get specific directions to places you have never been. Personal safety also means taking precautions and making arrangements. Instead of hoping to find a ride home from a late class, or a partner to walk from class to College Village or to the parking lot, plan ahead. If you have no one on whom you can rely, contact campus security before class. Tell a security officer the date, time, and place you will need an escort. Don't ever walk alone at night or hitchhike.

### **Lock Up**

Lock your car door and check the car before you get in. Lock your apartment or student housing doors at all times. Check all your locks. Request a dead bolt lock, one that cannot be opened from the outside. Chain locks can be made more useful by using longer screws that reach into the beam behind the door molding. Check window locks. Be ready to use your keys. Don't stand fumbling through book bags or purses. Close your blinds and shades at night. Make sure apartment parking lots, alleys, and hallways have adequate lighting. Do not open doors to strangers.

### **Know Where You Can Get Help**

A campus phone is located between the pay phones on your left as you enter the building from the main entrance. Another campus phone is adjacent to the information desk on the ground floor. A third campus phone is located on the third floor of the main building, on the wall of the walkway between the B and C sections. Find out where public phones are located in the areas that you habitually drive. Write down important phone numbers and keep them near your home, apartment or student housing phone.

### **Learn More**

Take self-defense classes if possible. Attend the Information Fair (on a variety of students groups and services including information on sexual assault and rape), other on-campus discussions, seminars, or special films.

### **Tell Someone Who Can Help**

If you sense danger or feel uncomfortable find appropriate help immediately. If the problem occurs on campus, speak to a professor, security officer, counselor, college nurse, dean of students, director of student services, or other staff member. If the problem occurs off-campus, contact the police, speak to a resident assistant if appropriate, and notify the Vice President of Student Services immediately. For any stressful situation, Genesee Community College encourages students to contact a College counselor for support and recommendations. Call (585) 343-0055 ext. 6257.

### **Reading Materials**

Precautions alone cannot prevent sexual assault. Anyone can be a victim. However, planning your actions if someone attempted to rape or sexually assault you, may better your chances of ending the attempt. Literature on rape, date rape, and sexual assault might be helpful. Contact the College Library at (585) 343-0055 ext. 6350 or the College counselor at (585) 343-0055 ext. 6257 for suggestions.

### **Disciplinary Action**

Where there is probable cause to believe the College's regulations prohibiting sexual misconduct have been violated, the College will pursue strong disciplinary action through its own channels. This discipline includes the possibility of suspension or dismissal from the college.

An individual charged with sexual misconduct will be subject to college disciplinary procedures, whether or not prosecution under New York State Criminal Statutes is pending.

The College will make every effort to be responsive and sensitive to the victims of these serious crimes. Protection of the victim and prevention of continued trauma is the College's priority.

Assistance for any other personal or academic concerns will be reviewed and options provided.

During the disciplinary process, the victim's rights are:

- To have a person or persons of the victim's choice accompany the victim throughout the disciplinary hearing.
- To remain present during the entire proceeding.
- As established in state criminal codes, to be assured that his/her irrelevant past sexual history will not be discussed during the hearing.
- To make a "victim impact statement" and to suggest an appropriate penalty if the accused is found in violation of the code.
- To be informed immediately of the outcome of the hearing.

During the disciplinary process, the rights of the "accused" are as described under the due process clauses of the Code of Conduct.



## Applicable Laws, Ordinances, And Regulations On Sex Offenses

Genesee Community College has programs in place to protect all members of the College community from sexual assault, including programs for prevention and prosecution of these crimes that occur within the jurisdiction of Genesee Community College.

NYS Law contains the following legal provisions defining the crimes related to sexual assault:

**Section 130.20 – Sexual Misconduct.** This offense includes sexual intercourse without consent and deviate sexual intercourse without consent. The penalty for violation of this section includes imprisonment for a definite period to be fixed by the court up to one year.

**Section 130.25/.30/.35 – Rape.** This series of offenses includes sexual intercourse with a person incapable of consent because of the use of forcible compulsion or because the person is incapable of consent due to a mental defect, mental incapacity, or physical helplessness. This series of offenses further includes sexual intercourse with a person under the age of consent. The penalties for violation of these sections range from imprisonment for a period not to exceed four years up to imprisonment for a period not to exceed 25 years.

**Section 130.40/.45/.50 – Criminal Sexual Act.** This series of offenses includes oral or anal sexual conduct with a person incapable of consent because of the use of forcible compulsion or because the person is incapable of consent due to a mental defect, mental incapacity, or physical helplessness. This series of offenses further includes oral or anal sexual conduct with a person under the age of consent. The penalties for violation of these sections range from imprisonment for a period not to exceed four years up to imprisonment for a period not to exceed 25 years.

**Section 130.52 - Forcible Touching.** This offense involves the forcible touching of the sexual or other intimate parts of another person for the purpose of degrading or abusing such person; or for the purpose of gratifying the actor's sexual desire. Forcible touching includes the squeezing, grabbing, or pinching of such other person's sexual or other intimate parts. The penalty for violation of this section includes imprisonment for a period of up to one year in jail.

**Section 130.55/.60/.65 – Sexual Abuse.** This series of offenses includes sexual contact with a person by forcible compulsion, or with a person who is incapable of consent due to physical helplessness, or due to the person being under the age of consent. The penalties for violation of these sections range from imprisonment for a period not to exceed three months up to imprisonment for a period not to exceed seven years.

**Section 130.65-a/.66/.67/.70 – Aggravated Sexual Abuse.** This series of offenses occurs when a person inserts a finger or a foreign object in the vagina, urethra, penis or rectum of another person by forcible compulsion, when the other person is incapable of consent by reason of being physically helpless, or when the other person is under the age of consent. The level of this offense is enhanced if the insertion of a finger or foreign object causes injury to the other person. The penalties for violation of these sections range from imprisonment for a period not to exceed seven years up to imprisonment for a period not to exceed 25 years.

### Specific Sex Offense Laws - Article 130 - Sex Offenses

130.00 Sex offenses; definitions of terms.

130.05 Sex offenses; lack of consent.

130.10 Sex offenses; defense.

130.16 Sex offenses; corroboration.

130.20 Sexual misconduct.

130.25 Rape in the third degree.

130.30 Rape in the second degree.	130.60 Sexual abuse in the second degree.	130.75 Course of sexual conduct against a child in the first degree.
130.35 Rape in the first degree.	130.65 Sexual abuse in the first degree.	130.80 Course of sexual conduct against a child in the second degree.
130.38 Consensual sodomy.	130.66 Aggravated sexual abuse in the third degree.	130.85 Female genital mutilation.
130.40 Sodomy in the third degree.	130.67 Aggravated sexual abuse in the second degree.	
130.45 Sodomy in the second degree.	130.70 Aggravated sexual abuse in the first degree.	
130.50 Sodomy in the first degree.		

**§130.00 Sex offenses; additional definitions of terms.**

The following definitions are applicable to this article:

1. "Sexual intercourse" has its ordinary meaning and occurs upon any penetration, however slight.
2. "Deviant sexual intercourse" means sexual conduct between persons not married to each other consisting of contact between the penis and the anus, the mouth and penis, or the mouth and the vulva.
3. "Sexual contact" means any touching of the sexual or other intimate parts of a person not married to the actor for the purpose of gratifying sexual desire of either party. It includes the touching of the actor by the victim, as well as the touching of the victim by the actor, whether directly or through clothing.
4. "Female" means any female person who is not married to the actor. For the purposes of this article "not married" means:
  - (a) the lack of an existing relationship of husband and wife between the female and the actor which is recognized by law, or
  - (b) the existence of the relationship of husband and wife between the actor and the female which is recognized by law at the time the actor commits an offense proscribed by this article by means of forcible compulsion against the female, and the female and actor are living apart at such time pursuant to a valid and effective:
    - i) order issued by a court of competent jurisdiction which by its terms or in its effect requires such living apart, or
    - (ii) decree or judgment of separation, or
    - (iii) written agreement of separation subscribed by them and acknowledged in the form required to entitle a deed to be recorded which contains provisions specifically indicating that the actor may be guilty of the commission of a crime for engaging in conduct which constitutes an offense proscribed by this article against and without the consent of the female.
5. "Mentally defective" means that a person suffers from a mental disease or defect which renders him incapable of appraising the nature of his conduct.
6. "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his conduct owing to the influence of a narcotic or intoxicating substance administered to him without his consent, or to any other act committed upon him without his consent.
7. "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act.
8. "Forcible compulsion" means to compel by either:
  - (a) use of physical force; or

- (b) a threat, express or implied, which places a person in fear of immediate death or physical injury to himself, herself or another person, or in fear that he, she or another person will immediately be kidnapped.
- 9. "Foreign object" means any instrument or article which, when inserted in the vagina, urethra, penis or rectum, is capable of causing physical injury.
- 10. "Sexual conduct" means sexual intercourse, deviate sexual intercourse, aggravated sexual contact, or sexual contact.
- 11. "Aggravated sexual contact" means inserting, other than for a valid medical purpose, a foreign object in the vagina, urethra, penis or rectum of a child, thereby causing physical injury to such child.  
(Eff.8/1/96, Ch. 122, L 1996)

**§130.05 Sex offenses; lack of consent.**

- 1. Whether or not specifically stated, it is an element of every offense defined in this article, except the offense of consensual sodomy, that the sexual act was committed without consent of the victim.
- 2. Lack of consent results from:
  - (a) Forcible compulsion; or
  - (b) Incapacity to consent; or
  - (c) Where the offense charged is sexual abuse, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct.
- 3. A person is deemed incapable of consent when he or she is:
  - (a) less than seventeen years old; or
  - (b) mentally defective; or
  - (c) mentally incapacitated; or
  - (d) physically helpless; or
  - (e) committed to the care and custody of the state department of correctional services or a hospital, as such term is defined in subdivision two of section four hundred of the correction law, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such department or hospital. For purposes of this paragraph, "employee" means
    - (i) an employee of the state department of correctional services who performs professional duties in a state correctional facility consisting of providing custody, medical or mental health services, counseling services, educational programs, or vocational training for inmates;
    - (ii) an employee of the division of parole who performs professional duties in a state correctional facility and who provides institutional parole services pursuant to section two hundred fifty-nine-e of the executive law; or
    - (iii) an employee of the office of mental health who performs professional duties in a state correctional facility or hospital, as such term is defined in subdivision two of section four hundred of the correction law, consisting of providing custody, or medical or mental health services for such inmates; or
  - (f) committed to the care and custody of a local correctional facility, as such term is defined in subdivision two of section forty of the correction law, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such facility. For purposes of this paragraph, "employee" means an employee of the local correctional facility where the person is committed who performs professional duties consisting of providing custody, medical or mental health services, counseling services, educational services, or vocational training for inmates.  
(Eff. 8/1/96, C&266, L 1996)

**§130.10 Sex offenses; defense.**

In any prosecution under this article in which the victim's lack of consent is based solely upon his incapacity to consent because he was mentally defective, mentally incapacitated or physically helpless, it is an affirmative defense that the defendant, at the time he engaged in the conduct constituting the offense, did not know of, the facts or conditions responsible for such incapacity to consent.

#### **§130.16 Sex offenses; corroboration.**

A person shall not be convicted of consensual sodomy, or an attempt to commit the same, or of any offense defined in this article of which lack of consent is an element but results solely from incapacity to consent because of the victim's mental defect, or mental incapacity, or an attempt to commit the same, solely on the testimony of the victim, unsupported by other evidence tending to:

- (a) Establish that an attempt was made to engage the victim in sexual intercourse, deviate sexual intercourse, or sexual contact, as the case may be, at the time of the occurrence; and
- (b) Connect the defendant with the commission of the offense or at tempted offense.

#### **§130.20 Sexual misconduct**

A person is guilty of sexual misconduct when:

1. Being a male, he engages in sexual intercourse with a female without her consent; or
2. He engages in deviant sexual intercourse with another person without the latter's consent; or
3. He engages in sexual conduct with an animal or a dead human body.

*Sexual misconduct is a class A misdemeanor.*

#### **§130.25 Rape in the third degree.**

A person is guilty of rape in the third degree when:

1. He or she engages in sexual intercourse with another person to whom the actor is not married who is incapable of consent by reason of some factor other than being less than seventeen years old; or
2. Being twenty-one years old or more, he or she engages in sexual intercourse with another person to whom the actor is not married less than seventeen years old.

*Rape in the third degree is a class E felony.*

#### **§130.30 Rape in the second degree.**

A person is guilty of rape in the second degree when, being eighteen years old or more, he or she engages in sexual intercourse with another person to whom the actor is not married less than fourteen years old.

1. By forcible compulsion; or
2. Who is incapable of consent by reason of being physically helpless; or
3. Who is less than eleven years old.

*Rape in the second degree is a class D felony.*

*Rape in the first degree is a class B felony.*

#### **§130.38 Consensual sodomy.**

A person is guilty of consensual sodomy when he engages in deviant sexual intercourse with another person.

*Consensual sodomy is a class B misdemeanor.*

#### **§130.40 Sodomy in the third degree.**

A person is guilty of sodomy in the third degree when:

1. He engages in deviate sexual intercourse with a person who is incapable of consent by reason of some factor other than being less than seventeen years old; or



2. Being twenty-one years old or more, he engages in deviant sexual intercourse with a person less than seventeen years old.

*Sodomy in the third degree is a class E felony.*

#### **§130.45 Sodomy in the second degree.**

A person is guilty of sodomy in the second degree when, being eighteen years old or more, he engages in deviant sexual intercourse with another person less than fourteen years old.

*Sodomy in the second degree is a class D felony.*

#### **§130.50 Sodomy in the first degree.**

A person is guilty of sodomy in the first degree when he engages in deviant sexual intercourse with another person:

1. By forcible compulsion; or
2. Who is incapable of consent by reason of being physically helpless; or
3. Who is less than eleven years old.

*Sodomy in the first degree is a class B felony.*

#### **§130.55 Sexual abuse in the third degree.**

A person is guilty of sexual abuse in the third degree when he subjects another person to sexual contact without the latter's consent; except that in any prosecution under this section, it is an affirmative defense that

- (a) such other person's lack of consent was due solely to incapacity to consent by reason of being less than seventeen years old, and
- (b) such other person was more than fourteen years old, and
- (c) the defendant was less than five years older than such other person.

*Sexual abuse in the third degree is a class B misdemeanor.*

#### **§130.60 Sexual abuse in the second degree.**

A person is guilty of sexual abuse in the second degree when he subjects another person to sexual contact and when such other person is:

1. Incapable of consent by reason of some factor other than being less than seventeen years old; or
2. Less than fourteen years old.

*Sexual abuse in the second degree is a class A misdemeanor.*

#### **§130.65 Sexual abuse in the first degree.**

A person is guilty of sexual abuse in the first degree when he subjects another person to sexual contact:

1. By forcible compulsion; or
2. When the other person is incapable of consent by reason of being physically helpless; or
3. When the other person is less than eleven years old.

*Sexual abuse in the first degree is a class D felony.*

#### **§130.66 Aggravated sexual abuse in the third degree.**

1. A person is guilty of aggravated sexual abuse in the third degree when he inserts a foreign object in the vagina, urethra, penis or rectum of another person:

- (a) By forcible compulsion; or

- (b) When the other person is incapable of consent by reason of being physically helpless; or
  - (c) When the other person is less than eleven years old.
2. Conduct performed for a valid medical purpose does not violate the provisions of this section.
- Aggravated sexual abuse in the third degree is a class D felony.***

**§130.67 Aggravated sexual abuse in the second degree.**

1. A person is guilty of aggravated sexual abuse in the second degree when he inserts a finger in the vagina, urethra, penis, or rectum of another person causing physical injury to such person:
- (a) By forcible compulsion; or
  - (b) When the other person is incapable of consent by reason of being physically helpless; or
  - (c) When the other person is less than eleven years old.
2. Conduct performed for a valid medical purpose does not violate the provisions of this section.
- Aggravated sexual abuse in the second degree is a class C felony.***

**§130.70 Aggravated sexual abuse in the first degree.**

1. A person is guilty of aggravated sexual abuse in the first degree when he inserts a foreign object in the vagina, urethra, penis or rectum of another person causing physical injury to such person:
- (a) By forcible compulsion; or
  - (b) When the other person is incapable of consent by reason of being physically helpless; or
  - (c) When the other person is less than eleven years old.
2. Conduct performed for a valid medical purpose does not violate the provisions of this section.
- Aggravated sexual abuse in the first degree is a class B felony.***

**§130.75 Course of sexual conduct against a child in the first degree.**

- (a) A person is guilty of course of sexual conduct against a child in the first degree when, over a period of time not less than three months in duration, he or she engages in two or more acts of sexual conduct, which includes at least one act of sexual intercourse, deviant sexual intercourse or aggravated sexual contact, with a child less than eleven years old.
- (b) A person may not be subsequently prosecuted for any other sexual offense involving the same victim unless the other charged offense occurred outside the time period charged under this section.

***Course of sexual conduct against a child in the first degree is a class B felony.***

**§130.80 Course of sexual conduct against a child in the second degree.**

- (a) A person is guilty of course of sexual conduct against a child in the second degree when, over a period of time not less than three months in duration, he or she engages in two or more acts of sexual conduct with a child less than eleven years old.
- (b) A person may not be subsequently prosecuted for any other sexual offense involving the same victim unless the other charged offense occurred outside the time period charged under this section.

***Course of sexual conduct against a child in the second degree is a class D felony.***

**§130.85 Female genital mutilation.**

1. A person is guilty of female genital mutilation when:
- (a) a person knowingly circumcises, excises, or infibulates the whole or any part of the labia majora or labia minora or clitoris of another person who has not reached eighteen years of age; or

- (b) being a parent, guardian or other person legally responsible and charged with the care or custody of a child less than eighteen years old, he or she knowingly consents to the circumcision, excision or infibulation of whole or part of such child's labia major or labia minora or clitoris.
- 2. Such circumcision, excision, or infibulation is not a violation of this section if such act is:
  - (a) necessary to the health of the person on whom it is performed, and is performed by a person licensed in the place of its performance as a medical practitioner; or
  - (b) performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, midwife, or person in training to become such a practitioner or midwife.
- 3. For the purposes of paragraph (a) of subdivision two of this section, no account shall be taken of the effect on the person on whom such procedure is to be performed of any belief on the part of that or an other person that such procedure is required as a matter of custom or ritual.

***Female genital mutilation is a class E felony.*** (Eff.11/1/97,CH618,L.1997)



## Ethical Guidelines for Faculty and Student Interaction

1. Demonstrating respect for the autonomy, dignity, and individuality of students: Respecting the autonomy of students means affirming the rights of individuals to make their own informed decisions, even if they seem to be mistaken, as long as their actions do not infringe on the welfare of others. Respecting the dignity of students means creating an environment which encourages mutual courtesy and attentiveness. Respecting the individuality of students means valuing difference. Honoring diversity requires creating and maintaining an environment where race, ethnicity, gender, sexual orientation, age, disability and other distinctions among people are recognized as contributions to the vitality of the college community.
2. Adhering to the proper role of intellectual guide and counselor: The proper role of intellectual guide and counselor entails the obligation to actively promote the individual intellectual achievement and academic welfare of each student.
3. Respecting the trust involved in the relationship between professor and student: Trusting relationships are essential to faculty-student communication. This implies that there will be honest, straightforward presentation of information, clarification of what is possible and what is not, and fulfillment of commitments. Students have a right to expect faculty members to respect their confidences and to act in their best interest.
4. Avoiding any exploitation of students: The exploitation of students refers to both psychological and physical harm and applies to policies and procedures, as well as individual acts. There is a special ethical obligation when two parties, such as faculty members and students, are unequal in power. The more powerful party has the obligation to ensure fair and respectful treatment of the less powerful party.

### **How to File a Complaint with the New York State Department of Education**

Section 494 C (j) of the Higher Education Act of 1965, as amended, provides that a student, faculty member, or any other person who believes he or she has been aggrieved by an institution of higher education has the right to file a written complaint.

In New York State, a complaint may be filed by any person with reason to believe that an institution has acted contrary to its published standards or that conditions at the institution appear to jeopardize the quality of the institution's instructional programs or the general welfare of its students. Any person who believes he or she has been aggrieved by an institution on or after May 4, 1994, may file a written complaint with the New York State Department of Education within three years of the alleged incident, after first trying to resolve the complaint directly with the institution by following the internal procedures provided by the institution. Genesee Community College has developed Complaint Procedures and they are on file in the Office of the Vice President for Student and Enrollment Services. To receive a copy of these procedures, or to receive advice on filing a formal complaint, please contact the Office of the Vice President for Student and Enrollment Services for further information.



## **Campus Crime Prevention**

Genesee Community College takes pride in the effectiveness of its dedicated Public Safety staff. The safety and protection of the College community are the principal concerns of each security officer. Assistance is available on a 24-hour basis, seven days per week by calling (585) 343-0055 ext. 6240.

### **Locating the Public Safety Office and Officers**

The Genesee Community College Public Safety Department functions to assist, direct, and protect both people and property on the campus. The campus facility is composed of a mall-like main building, which is connected by an enclosed walkway to the Genesee Center for the Arts and Technical Building. The Public Safety Office is located on the east side of the main building between the cafeteria and the William W. Stuart Forum. From the main entrance, walk straight ahead toward the far wall. The security office is on the left just after you have passed the cafeteria area.

### **Security Alerts**

As needed and appropriate, the Public Safety Office of Genesee Community College issues “Security Alerts” via e-mail, posters, or other appropriate means, to inform students, faculty, and staff of security issues which reflect recent or current activity on campus (e.g., attempted auto break-ins.)

### **The Role of Public Safety Officers**

Public Safety Officers work with local, state, and federal law enforcement agencies, and seek to protect life and property, to prevent anti-social conduct, and to preserve a secure campus environment. They are authorized to maintain order, investigate incidents, interview students and others who may be involved in a witness description or uncivil behavior, maintain reports, and contact local police and emergency agencies as appropriate.

### **Public Safety Officer Training and Requirements**

The college recruits public safety officers who have completed a two-year degree of which at least thirty hours are in criminal justice courses, or one year of college with at least one year of experience in appropriate criminal justice work. Prospective security officers must have completed New York State security guard training. They also must have received their licenses. All officers must have satisfactorily completed first aid and CPR certification, pass a physical agility test, and have a satisfactory physical exam. Genesee’s security officers must update CPR skills yearly and first aid skills every three years.

All full-time officers have blood borne pathogen training, and the college maintains a security officer with environmental safety training. The security officers hold monthly meetings for

continuing education, to review fire safety and evacuation procedures, and to review activities, problems and procedures.

### **Public Safety Procedures**

All Genesee Community College buildings are open to the public. With the exception of college-sponsored events, all building entrances are opened at 6:30 a.m. and locked at 10:00 p.m. Monday through Friday. On Saturday, the college is open from 6:30 a.m. until 5:00 p.m. The college is closed on Sundays and holidays.

### **Crime Prevention Programs**

Genesee Community College and College Village offer a variety of programs to help students stay safe. This publication and website posting represent the first step in providing valuable information to students. At the annual New Student Orientation, students are advised of the availability of campus safety information and resources, and the parents of traditional age students are given the same information at our annual Parent Orientation. Resource speakers are brought to the campus at least once a year to talk about sexual awareness and personal safety, and programs for smaller groups are offered at College Village. Planned Parenthood provides sexual safety information twice a month at an information table at the Batavia campus. Crime prevention and personal safety are also a major part of the annual training given to College Village's Resident Assistants. Crime Alerts are posted at appropriate locations when warranted. Our personal counselors are also available throughout the academic year to talk with students in small groups and one-on-one regarding crime, sexual harassment, equity, and safety issues. Literature on sexual assault and personal safety is also available at College Village and at the Genesee Community College Health Office. Sexual misconduct prevention and other safety training and literature are also provided regularly to all Genesee Community College faculty and staff. There is a standing Personal Safety and Campus Security Advisory Committee which meets at least once annually.

### **Escort Service**

Public safety will escort you to your vehicle upon request. It would be helpful to stop at the public safety office before class if you wish an escort so the officer will be available. If an officer cannot be found, go to the switchboard and the operator will assist in locating an officer.

### **Vehicle Assistance**

Public safety will provide jump starts and other services as needed once the owner of the vehicle provides proper identification.

### **Emergency Message**

If an emergency exists concerning an individual, notification may be left at the security office via phone or in person. The officer will do his or her best to locate the individual. Remember, a class can only be interrupted if the message is a true emergency.



**First Aid**

Public safety will provide first aid during the day and evening hours when the nurse is off duty.

**Lost and Found Items**

Lost items are generally turned in to the public safety office. If you lose something, check with the officer on duty several times because items are turned in at all hours by both students and employees.

**Security Considerations Used In Maintenance of College Facilities**

Genesee Community College is inspected for safety hazards on a daily basis by Public Safety Officers. Non-compliance issues are reported on written incident report forms and forwarded to the appropriate departments for corrective action. Genesee Community College is inspected on an annual basis by the New York State Office of Fire Prevention and Control for fire safety compliance. Noncompliance items must be corrected within a limited timeframe.

**Access**

A student may gain access to a room or area that is not normally open or while a teacher is off campus, providing the student has the proper written request form signed by both the teacher and the dean of the area requested. This form must be brought to the public safety office prior to being allowed access to the area. Students with handicapping conditions also may obtain an elevator key at the public safety office.

**Crime Prevention and Awareness for Employees**

The Civil Services Employees Handbook (pages 14 – 16 of the current edition), covers public safety and environmental safety and encourages employees to call on Public Safety staff at any time they are in need of help. This handbook also provides the Public Safety direct dial telephone number (585.345.6996) and on-campus extension number (Ext. 6240.)

The Handbook instructs that any medical emergency, accident, vandalism, larceny or similar problems on campus should be reported to the Public Safety Office immediately and states that “The officers will assist and direct you in the proper course of action. In case of an emergency during business hours, dial 6500 and the Operator will direct your call. Also, anything you feel is of a suspicious nature should be reported Public Safety.” (The Handbook also explains where phones are located, etc.)

The Professional Staff Handbook contains similar information on Pages 23 and 24 of the current edition.

A “GUSTO” Team responds to employee requests for special workshops and can provide employee personal safety workshops upon request. Sessions on the Services of Public Safety and on Personal Safety are offered from time to time during Professional Activities Weeks or at other

times. The senior Public Safety Officer takes part in New Staff Orientation and Public Safety Officers have provided workshops, on request, on personal safety.

### **General Campus Law Enforcement Statement and Local Law Enforcement Relationships**

The Genesee Community College Public Safety staff includes one Peace Officer and a staff of New York State Licensed Security Guards. The Peace Officer is sworn by the Genesee County Sheriff. In the event of a crime on campus, the Peace Officer and/or Security Guards would routinely call the Genesee County Sheriff. Only the Peace Officer has authority to arrest, although it is routinely the policy of Genesee Community College to assist with arrests. The Public Safety Staff reports any major College crime incidents to the Genesee County Sheriff's Office.

### **Communication with Law Enforcement Agencies**

The College maintains regular communication with all appropriate law enforcement agencies, and periodically discusses efficient security methods, ways to enhance student protection, and coordination of public safety efforts for all campuses. The public safety office and campus centers have established safety procedures with appropriate fire departments, local and New York State law enforcement agencies.

The main campus public safety office and all off-campus centers report all criminal actions and suspicious activities. College administrators, campus directors and college security officers regularly meet with representatives from the sheriff's departments of Genesee, Livingston, Orleans, and Wyoming counties, and the New York State Police Troops A and E to maintain and develop efficient communication and security procedures.

To support public safety procedures, the college's maintenance and housekeeping departments maintain all facilities and grounds on a regular basis to ensure the health and safety of students, faculty and staff.

### **Registered Sex Offenders Report**

According to Section 170101 (j) of the Violent Crime Control and Law Enforcement Act of 1999, all persons who have been convicted of a sexually violent offense or a criminal offense against a minor must be registered with local law enforcement agencies. Students and employees who wish to know who has been convicted of such of crimes can request this information from:

The City of Batavia Police Department; 10 West Main Street; Batavia, NY 14020; (584) 343-8180, or the Genesee County Sheriff's Department, 14 West Main Street; Batavia, NY, 14020 (585) 343-5000.



## Clery Act Report

<http://www.genesee.edu/offices/campus-safety/crime-report/>

## **Equity in Athletics Disclosure Act (EADA) REPORT**

**<http://www.geneseeathletics.com/information/Links>**



# Genesee Community College Student Code of Conduct

This Code has been established to implement the following policies established by the Genesee Community College Board of Trustees: Policy 1006 – Maintenance of Order, Policy 1024 – Statement of Respect, Policy 4008 – Student Rights and Responsibilities, Policy 4015 – Ethical guidelines and Policy 4016 – Academic Integrity.

## A. OVERVIEW OF CONDUCT EXPECTATIONS

1. The student conduct process at GCC exists to protect the interests of the college community and to challenge those whose behavior is not in accordance with our policies. Sanctions are intended to challenge students' moral and ethical decision-making and to help them bring their behavior into accord with our community expectations. When a student is unable to conform his/her behavior to community expectations, the student conduct process may determine that he/she should no longer share in the privilege of participating in the GCC community.
2. Students should be aware that the student conduct process is different from criminal and civil court proceedings. Procedures and rights in student conduct process are conducted with fairness to all, but do not include the same protections of due process afforded by the courts. Due process, within the student conduct process, assures timely written notice, a hearing before an objective decision-maker and the ability to appeal.
3. Students continue to be subject to city, state, and federal laws while at GCC, and allegations, charges or violations of those laws may also constitute violations of the Student Code of Conduct. In such instances, GCC may proceed with disciplinary action under the Student Code of Conduct independently of any criminal proceeding involving the same conduct and may impose sanctions for violation of the Student Code of Conduct even if such criminal proceeding is not yet resolved or is resolved in the student's favor.
4. No student will be found in violation of GCC policy without information showing more likely than not that a policy violation occurred. In GCC's sole discretion, sanctions will be proportionate to the severity of the violation(s).

## B. JURISDICTION OF GCC'S STUDENT CODE OF CONDUCT

1. The Student Code of Conduct at GCC will apply to conduct that occurs on GCC premises or GCC property including College Village, at any location at GCC sponsored activities, and in off-campus buildings occupied by students by virtue of their association with a group/organization given formal registration by GCC. The Student Code of Conduct may also apply off-campus, when the administration determines that the off-campus conduct

- a. indicates the individual poses an elevated risk of disruptive or harmful behavior in future interactions with the college community—Examples include
    - i. An allegation, arrest, charge or conviction of a criminal offense as defined by NYS law, including repeat violations of any local, state or federal law.
    - ii. Any situation where the student presents a danger or threat to the health or safety of himself/herself or others.
    - iii. Any situation that significantly impinges upon the rights, property or achievements of self or others, or significantly breaches the peace and/or causes social disorder.
  - b. reflects on the image or reputation of the College, when the student is seen as its representative.
2. Each student will be responsible for his or her conduct from the time he or she applies for admission until the actual awarding of a degree or withdrawal from GCC, including the academic year, during breaks and between academic terms, before classes begin and after classes end, during periods between terms of actual enrollment, and including conduct whether or not discovered until after a degree is awarded.
3. The Student Code of Conduct applies to guests of community members. Student hosts may be held accountable for the misconduct of their guests. Visitors to and guests of GCC are also protected by the Student Code of Conduct, and may initiate grievances for violations of the Student Code of Conduct committed against them.
4. Student organizations may be charged with violations of the Code for behavior occurring on or off campus. A student organization and its officers may be held collectively or individually responsible when violations of the Code by those associated with the group or organization have received the tacit or overt consent or encouragement of the leaders, officers, or spokespersons. While student organizations not registered by GCC are exempt from this Code, student members of such organizations may be held individually accountable for their behavior under this Code. When considering allegations involving collective responsibility, GCC may make individual findings with respect to the involvement of each student.
5. GCC will treat an attempt to commit a violation listed in the Student Code of Conduct as if the attempted conduct had been completed.
6. GCC reserves the right to investigate an allegation and to initiate conduct proceedings without a formal allegation by the victim or witnesses of misconduct.
7. GCC will not tolerate intentional false reporting of incidents. It is a violation of the Student Code of Conduct to make a false report of any policy violation or violation of any federal, state, or local law.
8. GCC community encourages the reporting of Student Code of Conduct violations. To this end and at the sole discretion of GCC officials, student(s) who may have conduct violations



related to the same incident and who report violations may be held less accountable for conduct violations and/or may be provided educational options in such cases.

9. Any student, faculty member, College official, or College employee may file a report of misconduct against a student. The report of misconduct shall be submitted, in writing, to the Dean of Students or Public Safety Office within (10) business days of the point at which the alleged misconduct occurred or within (10) business days of the point at which the alleged misconduct could reasonably have been known to occur. Any report submitted after 10 business days will be reviewed at the discretion of the Dean of Students for action. *For any complaint that is sexual in nature please refer to the Sexual Harassment policy.*
10. GCC reserves the right to notify parents/guardians of dependent students regarding any conduct situation when alcohol and/or narcotic/substance/inhalant abuse or violations are suspected. GCC may contact parents/guardians of dependents or non-dependent students who are under age 21 and contact parents/guardians to inform them of situations in which there is an imminent health and/or safety risk.
11. The Dean of Students or designee reserves the right to determine whether other GCC officials have a need to know about individual conduct allegations pursuant to the Family Education Rights and Privacy Act (FERPA).
12. In accordance with federal law, victims of sexual misconduct and/or sexual harassment incidents have an absolute right to be informed of the outcome and sanctions of the hearing, in writing, and without condition or limitation. GCC may release publicly the name, nature of the violation, and the sanction for any student who is found in violation of a GCC policy that is also a “crime of violence,” including but not limited to: arson, burglary, robbery, criminal homicide, sex offenses, assault, destruction/damage/vandalism of property and kidnapping/abduction. GCC may release this information to the victim in any of these offenses regardless of the outcome, but victims are cautioned that FERPA does not permit them to re-release this information to others.
13. Behavior conducted online such as harassment delivered by e-mail can subject students to GCC student conduct action. Blogs, web pages, social networking sites and other modes of electronic communication are in the public sphere, are not private, and can subject a student to allegations of misconduct. GCC does not seek out this information, but may take action if and when such information is brought to the attention of GCC officials.
14. Any question of interpretation or application of the Student Code of Conduct shall be referred to the Dean of Students or designee for final determination.
15. The Student Code of Conduct shall be reviewed periodically under the direction of the Dean of Students or designee. Recommendations for changes will be submitted to shared governance (i.e. Student Government Association, Academic Senate, Vice President for Student & Enrollment Services, President) as needed.

## C. DEFINITIONS

1. The term “College,” as used herein, means Genesee Community College. The term “GCC” means Genesee Community College. The term “GCC property” includes vehicles, equipment, furniture, identification badges, parking passes and other similar items owned, used or controlled by GCC.
2. The term “student,” for the express purposes of the Student Code of Conduct, includes; all persons taking course(s) at or through GCC, persons who withdraw after allegedly violating the Student Code of Conduct, persons who are not officially enrolled for a particular term but who have a continuing relationship with GCC, persons who have been notified of their acceptance for admission, and persons who have applied for admission to the college but have not yet been notified of acceptance. Additionally, an individual is considered a “student” whether or not such courses or programs are offered on a physical campus or site, or via distance learning, the Internet, or any other means of course delivery technology.
3. The term “faculty member” means any person hired by the College to conduct classroom or other instructional activities.
4. The term “College official” means any person hired by the College to work in a faculty, administrative, or security role, and any other staff member designated to serve as a College official.
5. The term “member of the College community” includes any person who is a student, faculty member, administrator, or any other person employed by the College.
6. The term “College premises” and or “Campus” includes all land, buildings, and facilities in the possession of or owned, used, leased or controlled by the College, including College Village, any and all off-campus centers, sites, and adjacent streets and sidewalks.
6. The term “hearing board” means the Student Conduct Committee.
7. The term “shall/will” is used in the imperative sense.
8. The term “may” is used in the permissive sense.
9. The “Vice President for Student and Enrollment Services and/or designee” is the person designated by the College President to be responsible for the administration of the Student Code of Conduct.
11. The term “policy” is defined as the written regulations of the College as found in, but not limited to; (1) the Student Conduct Code; (2) the Policies and Procedures Manual of Genesee Community College; (3) the most recently published Genesee Community College Catalog (4) the Student Rights and Responsibilities Handbook and the (5) Genesee Community College Faculty handbook. If at any point there appears to be a conflict among these documents, the policies as defined in the Policies and Procedures Manual of Genesee Community College shall prevail and any other documents shall be updated to conform.

12. The term “cheating” includes, but is not limited to; (1) use of any unauthorized assistance in taking quizzes, tests, or examinations; (2) dependence upon the aid of sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments; or (3) the acquisition, without permission, of tests or other academic material, belonging to a member of the College faculty or staff.
13. The term “plagiarism” includes, but is not limited to, the use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgement. It also includes the unacknowledged use of materials prepared by another person or agency engaged in the selling of term papers or other academic materials.
14. The terms “Student Code,” “Code of Conduct,” “Code,” and “Student Responsibilities” shall all be considered to be synonymous in this document.
15. The term “student organization” means any number of persons who have complied with the formal requirements for GCC registration through the Student Activities and/or Athletics Office.
16. The term “conduct officer,” “Student Conduct Program Coordinator” or “hearing officer” means a GCC official authorized on an ongoing or case-by-case basis by the Dean of Students to make determinations including but not limited to, the hearing procedures, whether a student’s behavior violates the Student Code of Conduct, the conduct’s impact upon the GCC community, recommendations for responsibility by the student, recommendations for sanctions.
17. The term “more likely than not” means information that would lead a reasonable person to conclude that it is more likely than not that a student’s behavior occurred and/or violated the Student Code of Conduct.
18. The term “interim action or interim suspension” means temporary exclusion from GCC premises and/or GCC events and/or other sponsored activities imposed by the Dean of Students.
19. The term “effective consent” as applicable to sexual misconduct means words or actions that show a voluntary agreement to engage in mutually agreed-upon sexual activity.
20. The term advisor means an individual who has agreed to assist the accused student during a hearing conducted by the Student Conduct Committee. The adviser may be a faculty member, staff member or currently enrolled GCC student. The role of the adviser will be limited to advising the student. The adviser may not appear in lieu of the accused student nor speak on their behalf.
21. Behavioral contract is a written document completed by both the student and the Administrative Hearing Officer.

22. The term day means normal college business day, not including Saturday, Sunday, or any officially recognized non-academic day or holiday.
23. Disruptive and disorderly conduct is behavior that changes the atmosphere of the classroom to an uncomfortable setting for students and staff; precludes an educational environment; or prevents learning from taking place. Refusing to comply with any lawful order or direction of a college official (such as providing identification upon request) is considered disruptive and disorderly conduct.
24. Probation for Code of Conduct violation(s) is a trial period during which the student must conduct her/himself in a manner consistent with college rules and regulations, including the Code of Conduct. Probation may be combined with other sanctions. Proof of violation of the terms of probation may be grounds for suspension, pending a hearing.
25. Suspension for Code of Conduct violation(s) is an action that excludes (separates) a student from the college for a specified period of time. Suspended students are not permitted to register for classes or be on college premises or participate in college activities on or off campus for the period of the suspension. Conditions for the student's return may be applied.
26. Written reprimand is a formal written warning explaining the violation(s) and expectations regarding future behavior.

#### D. BEHAVIORIAL MISCONDUCT

1. **Student members of the community are expected to uphold and abide by certain standards of conduct embodied by a set of core values that include *integrity, community, respect and responsibility*.** When members of the community fail to exemplify these values, College conduct proceedings are used to assert and uphold the Student Code of Conduct. The following are examples of misconduct; they are not intended to define misconduct in exhaustive or exclusive terms. Where appropriate, bulleted items provide examples of the type of conduct that is prohibited in this Code. Any student found to have committed or to have attempted to commit the following misconduct is subject to the conduct sanctions outlined below.
2. **INTEGRITY - GCC students exemplify honesty, integrity and a respect for truth in all of their dealings.** Behavior that demonstrates a lapse of integrity includes, but is not limited to:
  - a. Academic Misconduct:
    - i. Cheating:
      - (a) Using open textbooks, notes, electronic devices, or other assistance during an examination, except those that have been authorized by the instructor.
      - (b) Copying from another person's work during an examination.
      - (c) Participating in unauthorized collaboration means working on any academic assignment (including but not limited to: take home exams, exams, classroom assignments, homework assignments, projects, and

papers) with other students or anyone other than themselves when the instructor does not permit it.

- (d) Obtaining, distributing, or using the contents of an unadministered test.
- (e) Substituting for another student or permitting any person to substitute for oneself in an examination.
- (f) Intentionally falsifying or misrepresenting information derived from another source in an assignment (including but not limited to: making up sources for the bibliography of a paper or faking the results of a laboratory assignment/computer data).
- (g) Altering or forging an official Genesee Community College document/assignment or imitating another person's signature or mark on an academic or official document, including but not limited to: forging a faculty member's name to a document/assignment.
- (h) Abusing/Misusing Electronic Devices - The abuse or misuse of cellular phones, pagers, and other electronic devices in a manner that causes disruption in the classroom, library, or within any college owned or college operated facility. Also, abuse of cellular devices with photographic capabilities and the abuse of devices for purposes of photographing test questions or other notes and materials. The use of cellular phones, or other electronic devices, to store or search for information used to cheat on exams or to complete assignments without the instructor's permission.
- (i) Practicing Multiple Submission - Submitting substantial portions of the same work for credit more than once without the prior explicit consent of the instructor to whom the material is being (or has in the past been) submitted. The submission of work previously submitted in other classes created or established by you or from other individuals that was handed in, whether it was graded or not graded.
- (j) Failure to Contribute - Taking credit for participation in a collaborative project while failing to do one's fair share. This includes, but not limited to submitting your name on a group project or assignment when you failed to participate.
- (k) Sabotaging Other's Work - Preventing others from doing their work, including but not limited to disturbing someone's lab experiment or removing materials from a reserved reading file so that others may not use them.
- (l) Facilitating Academic Dishonesty  
Intentionally helping another student engage in academic dishonesty. This includes, but is not limited to supplying another student with test question answers or materials without the instructor's permission whether you are enrolled in the course or enrolled in any other course.

ii. Plagiarism:

- (a) Submitting an assignment purporting to be the student's original work which has been wholly or partly created by another person.
- (b) Presenting as one's own the ideas, organization, or wording of another person without acknowledgment of sources.

- (c) Knowingly permitting one's own work to be submitted by another student as if it were the student's own.
  - (d) Submitting any academic assignment/document that was created by someone other than yourself from the internet, a journal, book, magazine, another person, or any other source and seeking credit as if the assignment was your own creation.
- iii. Violating course rules as contained in the course syllabus, department policy or procedures as contained in the course syllabus, other rules and regulations provided to the student, including those of off-campus training sites, or other information provided to the student.
  - iv. Inappropriate behavior of students enrolled in apprenticeships, clinical training, practicum, co-op work experiences, internships, field experiences, directed practice, and workforce training programs, including but not limited to:
    - (a) Jeopardizing the safety and/or welfare of self and/or others, including clients, patients, customers, and co-workers.
    - (b) Failing to abide by policies and procedures of the training site, including privacy and confidentiality.
    - (c) Demonstrating sexual or other harassment as defined by the Student Code of Conduct.
    - (d) Behaving unethically.
    - (e) Acting illegally or otherwise violating the law.
- b. Acts of Dishonesty:
    - i. Furnishing false information to any GCC official, department, or office.
    - ii. Forgery, alteration, or misuse of any GCC document, record, or instrument of identification.
    - iii. Tampering with the election of any GCC registered student organization.
    - iv. Causing, condoning, or encouraging the completion of any GCC record, document, or form dishonestly.
    - v. Initiating a false report or warning of fire, explosion, bomb threat, or other emergency.
    - vi. Deception.
  - c. Knowingly presenting a worthless check or forging a money order in payment to GCC or to a member of GCC community acting in an official capacity, or failure to make satisfactory arrangement for the settling of a debit or account with GCC.
  - d. Violations of positions of trust or authority within the community.
  - e. Misuse or unauthorized use of GCC or organizational names, representations and/or images.
  - f. Taking of and/or damage to property or services of others on GCC premises, including but not limited to:
    - i. Knowingly possessing stolen property.
    - ii. Damaging items rented, leased, or placed on the campus at the request of GCC.

- iii. Selling or attempting to sell textbooks unless the seller is the owner of the textbook or has the permission of the owner to do so.
- iv. Taking, attempting to take, or keeping items belonging to the library or items placed in the library for display.
- g. Abuse, interference, or failure to comply in GCC processes.
- h. Abuse of the college conduct system, including but not limited to:
  - i. Failure to attend meetings scheduled for conduct code administration purposes.
  - ii. Falsification, distortion, or misrepresentation of information.
  - iii. Failure to provide, destroying, or hiding information during an investigation of an alleged policy violation.
  - iv. Attempting to discourage an individual's proper participation in, or use of, the college conduct system.
  - v. Harassment (verbal or physical) and/or intimidation of a member of a college conduct body prior to, during, and/or after a college conduct proceeding.
  - vi. Failure to comply with the sanction(s) imposed by the college conduct system.
  - v. Influencing or attempting to influence another person to commit an abuse of the college conduct system.

**3. COMMUNITY - GCC students honor and value their community. Behavior that violates this value includes, but is not limited to:**

- a. Disruption or obstruction of teaching, research, administration, or other GCC activities or services, including its public service functions on or off campus, or of other authorized non-GCC activities when the conduct occurs on GCC premises:
  - i. Disruptive classroom behavior.
  - ii. Obstruction of the free flow of pedestrian or vehicular traffic on GCC premises or at GCC sponsored or supervised functions.
  - iii. Participation in an on-campus or off-campus demonstration, riot or activity that disrupts the normal operations of GCC and/or infringes on the rights of other members of GCC community.
  - iv. The act of leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area.
- b. Unauthorized Entry or Use of GCC Property:
  - i. Unauthorized or attempted unauthorized entry into any building, office, construction site, or other GCC facility.
  - ii. Unauthorized possession, use, or duplication of keys or other methods of controlled access such as ID or access cards or codes.
- c. Damage to or littering on GCC premises and/or properties owned or leased by GCC:
  - i. Driving motor vehicles on lawn or premises without permission.
  - ii. Failing to maintain an organization's facilities and/or surrounding property.
  - iii. Vandalizing or the causing of intentional damage to the property of another person or GCC.

- d. Inappropriate use of college computing resources, Information Technology, including misuse of GCC computing facilities, equipment, network, passwords, accounts or information. Students who connect their personal computers to the college network will be held responsible for any violation of this policy that originates from that computer. Examples include but not limited to:
  - i. Use of computing facilities to interfere with the work of other community members.
  - ii. Unauthorized access to a file or personal or group account.
  - iii. Use of computing facilities to interfere with normal operation of GCC computer system.
  - iv. Anonymous or forged network news articles or E-mail messages.
  - v. Disk usage over the allotted limit without prior approval.
  - vi. Unauthorized transfer of a file.
  - vii. Use of another individual's identification and password or sharing of your own identification and/or password.
  - viii. Making copies of copyrighted computer software when no written authority to copy the software has been granted.
- e. Possession of firearms, explosives, other weapons (including, but not limited to BB/pellet guns, slingshots, and sharp edged instruments, such as hatchets, knives when used as weapons), or dangerous chemicals while on campus, unless properly authorized.
- f. Having animals on campus except as may be required for a class, or for use of guide/support/therapy animals.

**4. RESPECT - GCC students show respect for each other, for property and for the community. Behavior that violates this value includes, but is not limited to:**

- a. Threatening or causing physical harm, verbal abuse, or other conduct which threatens or endangers the health or safety of any person, whether done intentionally or by failure to exercise reasonable care.
- b. Intimidation (implied threats) or coercion (pressuring another unreasonably until an act is not truly voluntary).
- c. Harassment - verbal or physical conduct that has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creates an intimidating, hostile, or offensive working or educational environment.
- d. Discriminatory harassment, including speech, actions or conduct, which have the intent or effect of depriving a member of the community of educational or employment access, enjoyment, benefits or opportunities. Merely offensive or annoying behavior may feel like harassment, but to rise to the level of a code violation, harassment must cause a deprivation of the civil rights of a member of a protected class.
  - i. Protected classes include sex , race, color, religion, age, national origin, ancestry, disability, military status, sexual orientation, pregnancy status, or as defined by New York or applicable federal law.
  - ii. Including but not limited to all other discriminatory policies or procedures.



- e. Hazing – behavior that endangers the mental, physical, or emotional health of a student as a condition for initial or continued affiliation with any group regardless of either the lack of intent to endanger the student or the student’s own willingness to participate. The express or implied consent of the victim will not be a defense. Apathy or acquiescence in the presence of hazing is also a violation of this policy.
- f. Stalking – repetitive, menacing pursuit, following, harassment or interference with the peace and/or safety of a member of the community, or his/her immediate family.
- g. Sexual Misconduct:
  - i. Sexual Harassment – Gender-based verbal or physical conduct that has the purpose or effect of unreasonably interfering with an individual’s work or academic performance or creates an intimidating, hostile, or offensive working or educational environment. Sexual harassment includes any situation in which there is gender-based misconduct that is sufficiently severe, pervasive, persistent or objectively offensive that it alters the conditions of education or employment. Retaliatory conduct is also prohibited under this policy.
  - ii. Non-Consensual Sexual Contact – Any intentional sexual touching, however slight, with any object, by a man or a woman upon a man or a woman, without effective consent.
  - iii. Non-Consensual Sexual Intercourse – Any sexual intercourse (anal, oral, or vaginal), however slight, with any object, by a man or a woman upon a man or a woman, without effective consent.
  - iv. Sexual Exploitation – taking non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, such as prostituting another student, non-consensual video or audio-taping of sexual activity, going beyond boundaries of consent, voyeurism, or knowingly transmitting an STI or HIV to another student.
- h. Lewd or Obscene Conduct:
  - i. Public urination.
  - ii. Sexual acts performed in public or on college premises.
  - iii. Taking pictures of another person in a gym, locker room, or restroom without that person’s consent.
  - iv. Disrobing or Streaking.
  - v. Possession or distribution of any obscene materials.
- i. Violation of any GCC policy, rule, or regulation published in hard copy or available electronically on GCC website.

**5. RESPONSIBILITY - GCC students are given and accept a high level of responsibility as role models. Behavior that violates this value includes, but is not limited to:**

- a. Intentionally or recklessly causing a fire which causes or could cause damage to GCC or personal property, or which causes or could cause injury to any member of the community.
- b. Failure to follow fire safety procedures:

- i. Failure to exit a building when the fire alarm sounds.
  - ii. Misusing, damaging or tampering with fire safety equipment.
  - iii. Intentionally or recklessly obstructing a fire exit in any GCC building.
- c. Failure to comply with the directions of GCC officials, including campus public safety officers acting in the performance of their duties and/or failure to identify oneself to these persons when requested to do so. Deliberate incitement of others to commit a prohibited act; involvement as an accessory to any prohibited acts by providing assistance or encouragement to others engaged in them or by failure to separate oneself clearly from a group in which others are so engaged when there is sufficient time and opportunity.
- d. Action or inaction by a student who is in collusion which fails to discourage a violation of GCC policy or law; assisting in violation of GCC policies or public laws.
- e. Knowing failure of any organized group to exercise preventive measures relative to violations of this Student Code of Conduct by members.
- f. Use, possession, or distribution of alcoholic beverages.
- g. Use, possession, or distribution of a narcotic, inhalant or other controlled substances, as well as drug paraphernalia, except as expressly permitted by law.
- h. Abuse or misuse of prescriptions or over-the-counter medications.
- i. Conducting, organizing, or participating in any activity involving games of chance or gambling except as permitted by law.
- j. Allegation, arrest, or charge of a violation of federal, state, or local law.

E. PROCEDURES

1) Hearing Options

GCC uses informal and formal procedures to resolve violations of the Student Code of Conduct. The *informal process* is an administrative hearing and the *formal process* is a hearing with the Student Conduct Committee.

The Dean of Students or designee may seek to resolve disputes through arbitration or mediation. (Please see Procedures section, #4 and 5)

2) Notice

For all hearings, written notice by mail and email with delivery notification (in person can be used additionally) will be provided to the accused student stating: (1) the nature of the complaint including supporting documentation; (2) the alleged violation(s) of the Student Code of Conduct; and (3) the date, time and location of the hearing. A restriction will be noted on the accused student's record which will restrict him or her from adding or dropping classes or from obtaining transcripts until the conduct matter is resolved. Notice will include copies of the applicable procedures that will be used to decide the allegation. All notices are considered delivered when sent by the college.

*\*Target timeline that may be adjusted based on situation.*

STEP 1	<b><u>10 BUSINESS DAYS TO FILE A COMPLAINT:</u></b> The report of misconduct shall be submitted, in writing, to the Dean of Students or Public Safety Office within (10) calendar days of the point at which the alleged misconduct occurred or within (10) calendar days of the point at
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	which the alleged misconduct could reasonably have been known to occur.
STEP 2	3 Business Days to review the complaint & generate an appearance letter *
STEP 3	3 Business Days (DUE NOTICE) to adjudicate the charge (to meet with Administrative Hearing Officer or Student Conduct Committee) *
STEP 4	3 Business Days to notify in writing the findings to the offender *
STEP 5	5 Business Days to appeal

3) *Academic Integrity & Misconduct Procedure*

a. Faculty-Student Conference

1. The instructor judges whether the student was intentionally dishonest. (Checking with the Dean of Students Office for previous incidents could be illuminating.) If so, the following process shall be followed:
2. Within one business day, the instructor will fill out the Incident Report Form (available in public folders), and forward it to the Dean of Students office electronically. The instructor shall retain evidence for a possible AIRC hearing.
3. Within two business days of the Dean of Students office receiving the report, the student will meet with the Dean of Students or Designee (Campus Center Dean or the instructor, for example). During this meeting the student will accept or not accept responsibility for the incident on a Student Response Form, which he or she signs. The original Student Response Form will be sent to the Dean of Students, with copies to the Instructor, the Student and the Academic or Campus Center Dean.
4. If student accepted responsibility, the Dean of Students office will notify instructor of the predetermined sanction (above) within one business day.
5. If student did not accept responsibility, the AIRC will meet within two business days of the student's written disagreement to examine the evidence and testimony of instructor and student. The Dean of Students office will notify the student and the instructor of the decision and sanction, if any, within one business day.
6. A decision of the AIRC may be appealed to the Executive Vice President for Academic Affairs. The appeal is to be based on new evidence or a violation of proper procedure.

STEP 1	<b><u>1 Business day for Faculty member to fill out Incident Report Form</u></b>
STEP 2	2 Business days after receiving the report the DOS will generate, adjudicate and deliver findings to the student.
STEP 3 A.	Within 1 Business Day if the student accepts responsibility the DOS will notify the faculty member in writing.
OR STEP 3 B.	If the student does not accept responsibility the AIRC will meet within 2 Business Days to review the student's written complaint. The AIRC will submit in writing within by the next business day of their decision to the DOS office. The DOS office will notify the student and faculty member within 1 Business Day of the results of the AIRC

The AIRC, Academic Integrity Review Committee, is composed of four people: 3 people selected by the Academic Senate and a student selected by the Student Senate. The Chair will receive release time, and must be on call or arrange for an alternate to be available

any time classes are in session. All members of the AIRC, including alternates, must have received appropriate training.

**b. ACADEMIC DISPUTES — STUDENT COMPLAINTS**

1. Students charging a faculty member with prejudiced, capricious or unfair academic appraisal shall be permitted to discuss the charge with the instructor without fear of reprisal.
2. If the problem is unresolved, the student may take the complaint to the appropriate Dean (e.g., the Dean supervising that faculty member.) If the problem is still unresolved it may then be taken to the Academic Standards Committee. The student must initiate contact with this committee by submitting a Request to Appeal Grade form either electronically via the Genesee Community College website or by U.S. mail addressed to the Office of the Vice President of Student and Enrollment Services, ATTN.: Academic Standards Committee. (The form can be found here: <http://faculty.genesee.edu/senate/appeal.htm>.)
3. A copy of the appeal form will be forwarded to the Academic Standards Committee Appeals Chair, the Executive Vice President for Academic Affairs, and the course instructor. There is a fifteen day statute of limitations to initiate contact with the Academic Standards Committee on all student academic appeal issues. This statute of limitations period begins on the first day of the next full semester (Fall or Spring) following the post date of the disputed grade. Exceptions to this statute of limitations may be made on a case by case basis. This decision will be made by the appeals chair.
4. The appeal shall be formally presented to the committee and all involved parties. Due notice of the hearing date shall be provided to all involved parties. The committee shall approve, disapprove, or table the appeal. If the student is not satisfied with the outcome, the appeal may be forwarded to the Executive Vice President for Academic Affairs, whose decision shall be final.

**4) Administrative Hearing Procedure**

When the alleged violation does not warrant suspension or expulsion from the college, an administrative hearing is available upon a student's request. Administrative hearings are informal, one-on-one conversations with a conduct officer designated by the Dean of Students to determine responsibility for alleged violations of the Student Code of Conduct and discuss how a student's behavior impacts the community. Witnesses may be called, though this happens infrequently. Students will be given the option to accept responsibility for the violation and accept the sanction recommended by the conduct officer. If the student does not accept responsibility nor accept the recommended sanction, the matter will be resolved by the Student Conduct Committee. No appeal will be permitted from an administrative hearing.

**5) Student Conduct Committee Procedure**

- a) The Student Conduct Committee is composed of four (4) members, including one (1) faculty appointed by the **Academic Senate**, one (1) staff member and one (1)

administrator and two (1) student appointed by the Dean of Students, who volunteer for each hearing from a pool of trained members. The administrator will serve as chair of the committee. A student conduct committee may convene with a minimum of 3 members present.

i) The Student Conduct Committee is facilitated by the Student Conduct Program Coordinator, who does not participate in the hearing but serves as a resource during the deliberation and sanctioning phases of the hearing. This officer has access to a student's conduct history and will make it available to the Student Conduct Committee when appropriate.

b) If a student who has been given notice does not appear before the hearing board, the information in support of the alleged violation(s) will be presented and considered in the student's absence. If no defense is offered, it is reasonable for the hearing officers to infer that no defense is available.

c) The student has the right to be assisted in the hearing by a College advisor/representative (an administrator, faculty, staff, or other student chosen by the student). Advisors may provide counsel and support to the student but are not permitted to speak to the Committee or to participate directly in the hearing. Advisors who do not observe this restriction can be removed from the hearing by the Student Conduct Program Coordinator. No replacement advisor will be permitted.

i) Because student conduct hearings are not legal proceedings, attorneys are not permitted to participate or to be in the room during the hearing.

d) The student and the Dean of Students may arrange for witnesses to present pertinent information to the Committee. Witnesses will provide information to and answer questions from the Committee. Questions of whether potential information will be received will be resolved at the discretion of the chair.

e) The student, and his/her advisor, if any, will be allowed to attend the entire portion of the hearing at which information is received, excluding deliberations of responsibility and sanctioning. Admission of any other person to the hearing will be at the discretion of the Dean of Students.

f) In hearings involving more than one student in the same situation, the Dean of Students may permit the hearings concerning each student to be conducted jointly.

g) Supporting documentation, including pertinent records, exhibits, and written statements may be accepted as information for consideration at the discretion of the chair. All documentation must be submitted prior to or during the hearing.

h) All procedural questions are subject to the final decision of the chair.

i) The Committee will determine, by a majority vote, whether the student is responsible for each alleged violation of the Student Code of Conduct. The Committee's

determination will be made on the basis of whether it is more likely than not that the student violated the Student Code of Conduct. If a student is found to be in violation of the Student Code of Conduct, the Committee will then deliberate on what sanction(s) it will recommend to the Dean of Students.

j) Formal rules of process, procedure and/or technical rules of evidence, such as are applied in civil or criminal court, are not used in these proceedings.

k) Hearings (excluding deliberations) will be audio recorded for the purpose of appeals.

l) The chair will prepare a written form to the Dean of Students, detailing the finding, the majority vote, the information cited by the Student Conduct Committee in support of its finding, and any information that the Student Conduct Committee excluded from its consideration and why, concluding with any recommended sanctions. This form must be submitted to the Dean of Students within 48 hours after the end of deliberations. The Dean of Students may make appropriate modifications and then will implement the final determination and inform the party or parties.

m) Administrative and Student Conduct Committees are closed.

#### 6) Interim Suspension

a) When it has reasonable cause to separate a student from the community, the college may suspend a student for a reasonable time pending the scheduling of a campus hearing for violation of the code of conduct, including arrest, criminal investigation, and/or charges.

b) The college will schedule an informal meeting with the student as soon as possible to determine whether the interim suspension should continue until a formal resolution under the Student Code of Conduct is reached.

#### 7) Voluntary Withdrawal Agreement

In certain cases where a student's behavior and continued enrollment may adversely affect his or her well being or the college, the Dean of Students or designee and the student may agree to discontinue his or her attendance at GCC for a specified period of time and agree to conditions for re-admittance to the college. In such instances, the Dean of Students or designee and the student will sign a written Withdrawal Agreement.

#### 8) Administrative Disenrollment

a) A student may be disenrolled from the college and prohibited from all or any portion of College premises, College-related activities or registered student organization activities, and/or permitted to remain only under specified conditions for a designated

period of time (i.e. 1 or 2 semesters) when the Dean of Students finds that there is a preponderance of evidence that:

i)The student's continued presence poses a significant risk of substantial harm to the health or safety of themselves or others; or to property; or to College operations; or

ii)The student, as a direct result of an apparent health condition, is engaged in substantial, continuing disruption of teaching, learning, research, administration or other College-related activities.

b) Before making such a determination, the Dean of Students shall notify the student in writing of the reasons that disenrollment is being considered, provide the student with an opportunity to respond, and consult with appropriate College personnel. The Dean of Students may also consult with any other persons who are deemed appropriate under the circumstances.

c) The Dean of Students may request the student to undergo an appropriate examination, as specified by the Dean of Students, to determine whether any health condition or disability as defined by the Americans with Disabilities Act exists that may be addressed through reasonable accommodation to reduce the risk or disruption and whether any such accommodation is possible.

If the student fails to undergo such an examination, and if the other available evidence supports administrative disenrollment, the Dean of Students shall, to the extent reasonably possible, take the least restrictive measure or combination of measures necessary to resolve the risk or disruption.

d) A student who has been disenrolled, prohibited from College premises, College-related activities or registered student organization activities, or permitted to remain only under specified conditions may petition the Dean of Students in writing for revision of that status. The petition must include supporting documentation or evidence that:

i)The conditions found to have existed under paragraph (a)(i) or (ii) of this rule no longer exist and will not recur, and

ii)The student meets all usual and appropriate college requirements for admission and enrollment, including resolving any outstanding violations of the Student Code of Conduct.

e) Upon receipt of such a petition, the Dean of Students shall evaluate the evidence and may consult with the student, any appropriate College personnel, and any other persons whom the Dean of Students deems appropriate. The Dean of Students may deny the petition, grant the petition in whole or in part under specified conditions, or grant the petition in whole or in part without condition. In the event of a negative determination, the student may request in writing to have the decision reviewed by the Vice President

for Enrollment & Student Services and Behavioral Assessment Intervention Team (BAIT).

9) Special Provisions for Sexual Misconduct and Other Sensitive Issues (*Refer to Sexual Harassment policy also.*)

a) Upon the receipt of a claim of sexual misconduct, the Dean of Students or their designee will immediately confer with the Title IX Coordinator on interim action, accommodations for the alleged victim or other necessary remedial short-term action.

b) Victims will be notified when written notice of the allegation/hearing is delivered to the accused student, so as to protect themselves from potential retaliation.

c) Administrative and Student Conduct Committees are closed. In sensitive issues, such as stalking, violence, and sexual misconduct, all hearings will be closed at the sole discretion of the Dean of Students, only those who have a legitimate reason to be present will be permitted to be present.

d) Sexual misconduct and other sensitive complaints will be given priority to ensure that GCC provides a prompt response.

e) All parties to an allegation have a right not to face questions or discussion of their sexual history or character unless the facilitator determines that such information is highly relevant to determining whether the policy has been violated.

f) Each party has the right to be present for all testimony and questioning. Deliberation is conducted in closed-session without the parties present. If the findings and sanctions are presented orally at the end of the hearing, the student will be permitted to be present.

g) Whether in writing or informed orally, the victim has the right to know the outcome and sanctions of the hearing and whether an appeal has been filed.

h) The board may accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the student, respondent, and/or other witnesses during the hearing by providing separate facilities, by using a visual screen, and/or permitting participation by telephone, videophone, closed circuit television, video conferencing, videotape, audiotape, written statement, or other means where and as determined by the Dean of Students to be appropriate.

i) The Dean of Students or their designee has final decision making authority with regard to complaints, subject to appeal. Where the accused individual is found in violation, after consultation with the Title IX officer, the appropriate sanctions for the violation will be imposed. The college will act to end the discrimination, prevent its reoccurrence and remedy its effect on the victim and the college community.

10) Sanctions



a) The following sanctions may be imposed upon any student found to have violated the Student Code of Conduct:

- i) Restitution – compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.
- ii) Educational sanctions – including work assignments, essays, community service, behavioral contract, administrative referral, or other related educational assignments.
- iii) Written warning – a notice to the student that further proven violations of the Student Code of Conduct will result in progressive sanctions.
- iv) Disciplinary probation - The student is not in good standing for a designated period of time and is notified that further proven violations of the Student Code of Conduct may result in suspension or expulsion from GCC, particularly if the incident occurs during the probationary period.
- v) Facility suspension- The student no longer has the privilege of entering or using a particular facility or building for a specified period of time or until a specific condition is met.
- vi) Facility expulsion- The student has lost the privilege of entering or using in a particular facility or building at any time.
- vii) Loss of privileges – denial of specified privileges for a designated period of time.
- viii) Removal from class – the student is barred from attending a particular class or may be reassigned to a different section of the same class. Details will be coordinated between the Dean of Students or designee and the appropriate faculty member.
- ix) Revocation of admission – the student loses admitted status to GCC. A permanent notation will be made on the student’s transcript indicating that the admission was revoked and the date of the action.
- x) Revocation of degree – the student loses the right to claim a degree from GCC. Awarding of the degree will be removed from the student’s transcript and a permanent notation will be made on the transcript indicating the revocation, the degree involved, and the date of the action. The Executive Vice President for Academic Affairs or designee shall review all recommendations for degree revocation.
- xi) Suspension from GCC - suspension is defined as a complete separation from GCC activities, services, facilities, and grounds. Suspension may be:

- (a) Term suspension will be for a specified time, after which the suspended student may return to GCC.
- (b) Conditional suspension will stipulate that reentry to the community will be granted upon the fulfillment of certain conditions by the student. Subject to fulfillment of the stipulated conditions, the suspension will be indefinite.

- xii) Expulsion from GCC. The student is permanently separated from GCC, may not be present on GCC property, or in attendance at GCC-sponsored events. Permanent notification will appear on the student's transcript.

b.) Student Group or Organization Sanctions

- i. Any of those sanctions listed above.
- ii. Loss of registration as a registered student organization. The Student Activities Office shall notify any national, regional or state governing body with whom the organization is associated or which sponsors social, academic, or sports events when such action is taken. Loss of registration includes loss of all student activity fee and College funding and all rights and privileges accorded to registered student organizations.
- iii. Loss or withdrawal of all student activity fee funding or other College funding and any other selected rights and privileges accorded to registered student organizations for a specified period of time.

c.) More than one of the sanctions listed above may be imposed for any single violation.

d.) Any sanction imposed will be in effect at all campuses/sites or functions sponsored by or under the supervision of GCC or College Village.

e.) Where there is reasonable cause to believe that a student has intentionally selected a person or persons to victimize or selected property to damage, or violated other provisions of the Student Code of Conduct because of the personal characteristics or status of a person or group of persons or personal characteristics or status of the owner or owners of any property, sanctions may be increased. These characteristics include, but are not limited to race, ethnicity, creed, disability, color, religion, national origin, sex, age, veteran's status, marital status, sexual orientation, or public assistance status.

f.) If a student is found responsible for one or more violations of the Student Code of Conduct, the student's prior conduct record will be taken into consideration and may result in progressive sanctions because of a pattern of behavior. While previous conduct violations by the accused student are not generally admissible as information about the present alleged violation, the Student Conduct Program Coordinator may supply information to the Student Conduct Committee in pattern-offense situations, such as stalking, relationship violence, sexual misconduct, only if:

- i. The accused was previously found to be responsible; or
- ii. The previous incident was substantially similar to the present allegation; or
- iii. Information indicates a pattern of behavior and substantial conformity with that pattern by the accused student.

g.) By federal law, all conduct records are kept by the Dean of Students Office for seven (7) years from the date of the incident, and then destroyed.

## 11) Appeals

a) A student who is found responsible for violating the Student Code of Conduct may petition within 5 business days of the notice of the written decision for review of a decision reached or a sanction imposed. Such petitions will be in writing, can be email, no texting, and shall be submitted to the Vice President for Enrollment Services Office.

b) If the Vice President for Enrollment Services or designee determines that the appeal may be reviewed, the matter will refer to the appeal hearing body for re-opening of the hearing to allow reconsideration of the original determination and/or sanction(s). The Vice President for Enrollment Services or designee serves as the final level of review in a conduct matter.

c) Except as required to explain the basis of new information, an appeal will be limited to review of the verbatim record of the initial hearing and supporting documents for one or more of the following purposes:

- i) The discovery of substantial new facts unavailable at the time of the original hearing;
- ii) Prejudicial procedural error;
- iii) Excessive severity of the sanction in proportion to the offense;
- iv) Prejudicial error as to the findings of fact;
- v) To assess whether bias on the part of a Committee member deprived the process of impartiality.

d) Every opportunity will be taken to return the allegation to the original hearing body for reconsideration. When this is not possible, the Dean of Students may decide the appeal directly. The Dean of Students may support or change a decision or modify a sanction. The Dean of Students will be deferential to the original decision maker, making changes to the finding only when at least one of the grounds for appeal in 9 (c) is met, and to the sanction only if a compelling justification to do so exists and a unanimous decision is reached.

- a) Loss of Academic Credit – Students found responsible for serious violations may, as a part of the College’s disciplinary action, be denied academic credit for the semester in which a suspension or expulsion occurred.
- b) Liability for Tuition and Fees -- Students found responsible for serious violations will, as a part of the College’s disciplinary action, be responsible for all tuition and fees for the semester in which a suspension or expulsion occurred.

In cases in which a judicial body determines that a student has violated the Code of Conduct, the judicial body shall recommend an appropriate sanction. The final sanction, however, shall be

imposed by the Dean of Students or designee (except in cases of appeal beyond the Dean of Students or designee, in which case the appellate body shall determine the penalty.) The Dean of Students or designee is not limited to penalties or sanctions recommended by members of the judicial body.

### **Transcript Notation**

Genesee Community College official transcripts will notate reportable code of conduct violations.

For crimes of violence, including, but not limited to sexual violence, defined as crimes that meet the reporting requirements pursuant to the federal Clery Act, Genesee Community College shall make a notation on the transcript of students found responsible after a conduct process that they were “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.” For the respondent who withdraws from the institution while such conduct charges are pending, and declines to complete the disciplinary process, Genesee Community College shall make a notation on the transcript of such students that they “withdrew with conduct charges pending.”

Students may make an appeal seeking removal of a suspension transcript notation following the Appeals process as outlined in the Student Code of Conduct procedures on Appeals(Section 11). The suspension notation may not be removed prior to one year after conclusion of the suspension.

Notations for expulsion may not be appealed and will not be removed. If a finding of responsibility is vacated for any reason, any such transcript notation will be removed.

## Students' Sexual & Interpersonal Violence Bill Of Rights

The State University of New York and Genesee Community College are committed to providing options, support and assistance to victims/survivors of sexual assault, domestic violence, dating violence, and/or stalking to ensure that they can continue to participate in College-wide and campus programs, activities, and employment. All victims/survivors of these crimes and violations, 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, or criminal conviction, have the following rights, regardless of whether the crime or violation occurs on campus, off campus, or while studying abroad:

**All students** have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressures from the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few institutional representatives as practicable and not to be required to unnecessarily repeat a description of the incident;
8. Be free from retaliation by the institution, the accused, and/or their friends, family and acquaintances within the jurisdiction of the institution;
9. Access to at least one level of appeal of a determination
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process;
11. Exercise civil rights and practice of religion without interference by the

investigative, criminal justice, or judicial or conduct process of the College;

**Options in Brief:**

Victims/survivors have many options that can be pursued simultaneously, including one or more of the following:

- Receive resources, such as counseling and medical attention;
- Confidentially or anonymously disclose a crime or violation (for detailed information on confidentiality and privacy, visit [Options for Confidentially Reporting Sexual Violence Procedure 121.2](#)).
- Make a report to:
  - o An employee with the authority to address complaints, including the Title IX Coordinator, Dean of Students, or Human Resources;
  - o Campus Safety;
  - o Local law enforcement; and/or
  - o Family Court or Civil Court.

Copies of this Bill of Rights shall be distributed annually to students, made available on the college's website, and posted in each campus residence hall, dining hall, and student union or campus center and shall include links or information to access the Sexual Violence Response Policy and the Options for Confidentially Disclosing Sexual Violence.

## sexual Violence Response Procedures

In accordance with the Victim/Survivor Bill of Rights, victims/survivors shall 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:

### **I-Reporting:**

- To report *confidentially* the incident to one of the following college officials, who by law may maintain confidentiality, and can assist in obtaining services (more information on confidential report is available in the Options for Confidentially Reporting Sexual Violence Procedure 121.2
  - Genesee Community College's Counseling Service  
One College Rd, C209  
Batavia, NY 14020  
585-343-0055, ext. 6219  
[www.genesee.edu/campuslife/counseling](http://www.genesee.edu/campuslife/counseling)
  - Anonymously via the Campus Safety Silent Witness Form  
[www.genesee.edu/depts/public\\_safety/silentwitness](http://www.genesee.edu/depts/public_safety/silentwitness);
- To disclose *confidentially* the incident and obtain services from the New York State, New York City or county hotlines:  
<http://www.opdv.ny.gov/help/dvhotlines.html>. Additional disclosure and assistance options are catalogued by the Office for the Prevention of Domestic Violence and presented in several languages:  
<http://www.opdv.ny.gov/help/index.html> (or by calling 1-800-942-6906), and assistance can also be obtained through:
  - SurvJustice: <http://survjustice.org/our-services/civil-rights-complaints/>;
  - Legal Momentum: <https://www.legalmomentum.org/>;
  - NYSCASA: <http://nyscasa.org/responding>;
  - NYSCADV: <http://www.nyscadv.org/>;
  - Pandora's Project: <http://www.pandys.org/lgbtsurvivors.html>;
  - GLBTQ Domestic Violence Project: <http://www.glbtqdv.org/> ; and
  - RAINN: <https://www.rainn.org/get-help>.
  - Safe Horizons: <http://www.safehorizon.org/>.(note that these hotlines are for crisis intervention, resources, and referrals, and are not reporting mechanisms, meaning that disclosure on a call to a hotline does not provide any information to the campus. Victims/survivors are encouraged to additionally contact a campus confidential or private resource so that the campus can take appropriate action in these cases).

- To report the incident to one of the following college officials who can offer Privacy and can assist in obtaining resources (note that an official who can offer privacy may still be required by law and college policy to inform one or more college officials about the incident, including but not limited to the Title IX Coordinator):
  - Virginia Taylor, Vice President for Student and Enrollment Services  
One College Rd, C201  
Batavia, NY 14020  
(585) 343-0055 ext.6221  
[vmtaylor@genesee.edu](mailto:vmtaylor@genesee.edu)
  - Gina Weaver, Associate Vice President for Human Resources  
Title IX Coordinator  
One College Rd, C112  
Batavia, NY 14020  
(585) 343-0055, ext. 6514  
[gmweaver@genesee.edu](mailto:gmweaver@genesee.edu)
  - Stephen Wise, Director of Campus Safety  
One College Rd, B111  
Batavia, NY 14020  
(585) 343-0055 ext.6847  
[spwise@genesee.edu](mailto:spwise@genesee.edu)
- To file a criminal complaint with Campus Safety and/or with local law enforcement:
  - Stephen Wise, Director of Campus Safety  
One College Rd, B111  
Batavia, NY 14020  
(585) 343-0055 ext.6240  
[gccsec@genesee.edu](mailto:gccsec@genesee.edu)
  - Genesee County Sheriff's Office via 911  
165 Park Road  
Batavia, New York 14020-1283  
Business Office: (585) 345-3000  
[sheriff@co.genesee.ny.us](mailto:sheriff@co.genesee.ny.us)
  - Livingston County Sheriff's Office  
4 Court Street  
Geneseo, NY 14454  
(585) 243-7100  
[lcs@co.livingston.ny.us](mailto:lcs@co.livingston.ny.us)



- Orleans County Sheriff's Office  
400 Public Safety Building  
13925 State Route 31  
Albion, New York 14411-9386  
(585) 590-4142  
[scott.hess@orleansny.com](mailto:scott.hess@orleansny.com)
- Wyoming County Sheriff's Office  
151 N. Main St.  
Warsaw, NY 14569  
(585) 786-2255  
[grudolph@wyomingco.net](mailto:grudolph@wyomingco.net)
- To file a report of sexual assault, domestic violence, dating violence, and/or stalking, talk to the Title IX Coordinator for information and assistance. Reports will be investigated in accordance with Genesee Community College policy. If a victim/survivor wishes to keep his/her identity private, he or she may call the Counseling Office, ext. 6219 anonymously to discuss the situation and available Options for Confidentially Reporting Sexual Violence Procedure 121.2:
  - Gina Weaver, Associate Vice President for Human Resources  
Title IX Coordinator  
One College Rd, C112  
Batavia, NY 14020  
(585) 343-0055, ext. 6514  
[gmweaver@genesee.edu](mailto:gmweaver@genesee.edu)
- When the accused is an employee, a victim/survivor may also report the incident to the Office of Human Resources or may request that one of the above referenced confidential or private employees assist in reporting to Human Resources. 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 victim/survivor, 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.
  - Gina Weaver, Associate Vice President for Human Resources  
Title IX Coordinator  
One College Rd, C112  
Batavia, NY 14020  
(585) 343-0055, ext. 6514  
[gmweaver@genesee.edu](mailto:gmweaver@genesee.edu)

- The victim/survivor may withdraw his/her complaint or involvement from the Genesee Community College process at any time.

## **II-Resources:**

- To obtain effective intervention services:
  - Genesee Community College's Counseling Service  
One College Rd, C209  
Batavia, NY 14020  
585-343-0055, ext. 6219  
[www.genesee.edu/campuslife/counseling](http://www.genesee.edu/campuslife/counseling) (No charge)
  - Student Health Center  
One College Rd, B109  
Batavia, NY 14020  
585-343-0055, ext. 6835 (No charge).
  - United Memorial Medical Center  
127 North Street  
Batavia, New York 14020  
(585) 343-6030

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

- Genesee County Health Department  
3837 West Main St Rd  
Batavia, NY 14020  
585-344-2580, ext. 5000  
Free testing: Tuesdays, 9-11am and 2-4pm (walk-ins welcome)
- Planned Parenthood  
222 W Main Street  
Batavia, NY 14020  
866-600-6886

Within 96 hours of an assault, you the victim/survivor can get a Sexual Assault Forensic Examination (commonly referred to as a rape kit) at a hospital. While there should be no charge for a rape kit, there may be a charge for medical or counseling services off campus and, in some cases, insurance may be billed for services. The victim/survivor is encouraged to let hospital personnel know if they do not want their insurance policyholder to be notified about their access to these services. The New York State Office of Victim Services may be able to assist in compensating 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](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>.

### **III-Protection and Accommodations:**

#### **The victim/survivor has the right to:**

- When the accused is a student, to have the College issue a “No Contact Order,” meaning that continuing to contact the protected individual is a violation of college policy subject to additional conduct charges; if the accused and a protected person observe each other in a public place, it is the responsibility of the accused to leave the area immediately and without directly contacting the protected person.
- To have assistance from Campus Safety or other College officials in obtaining an Order of Protection or, if outside of New York State, an equivalent protective or restraining order.
- To receive a copy of the Order of Protection or equivalent and have an opportunity to meet or speak with a College official 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(s); that burden does not rest on the protected person(s).
- To an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension.
- To have assistance from Campus Safety in effecting an arrest when an individual violates an Order of Protection or, if outside of New York State, an equivalent protective or restraining order within the jurisdiction of Campus Safety or, if outside of the jurisdiction or to call on and assist local law enforcement in effecting an arrest for violating such an order.
- When the accused is a student and presents a continuing threat to the health and safety of the community, to have the accused subject to interim suspension pending the outcome of a conduct process.
- When the accused is not a member of the college community, to have assistance from Campus Safety or other College officials in obtaining a persona non grata letter, subject to legal requirements and college policy.
- To obtain reasonable and available interim measures and accommodations that effect a change in academic, housing, employment, transportation, or other applicable arrangements in order to ensure safety, prevent retaliation, and avoid an ongoing hostile environment. While victims/survivors may request accommodations through any of the offices referenced in this policy, the following office can serve as a point to assist with these measures:
  - Virginia Taylor, Vice President for Student and Enrollment Services  
One College Rd, C201  
Batavia, NY 14020  
(585) 343-0055 ext.6221  
vmtaylor@genesee.edu

## IV-Student Conduct Process:

### The victim/survivor has the right:

- To file student conduct charges against the accused. Conduct proceedings are governed by the procedures set forth in the Genesee Community College Student Code of Conduct: [http://www.genesee.edu/assets/file/policies/GCC\\_Student\\_Code\\_of\\_Conduct.pdf](http://www.genesee.edu/assets/file/policies/GCC_Student_Code_of_Conduct.pdf) as well as federal and New York State law, including the due process provisions of the United States and New York State Constitutions.
  
- Throughout conduct proceedings, the accused and the victim/survivor will have:
  - The same opportunity to have access to an advisor of their choice. Participation of the advisor in any proceeding is governed by federal law and the Student Code of Conduct;
  - The right to a prompt response to any complaint and to have their complaint investigated and adjudicated in an impartial and thorough manner by individuals who receive annual training in conducting investigations of sexual violence, the effects of trauma, and other issues related to sexual assault, domestic violence, dating violence, and stalking.
  - The right to an investigation and process conducted in a manner that recognizes the legal and policy requirements of due process and is not conducted by individuals with a conflict of interest.
  - The right to receive written or electronic notice of any meeting or hearing they are required to or are eligible to attend.
  - The right to have a conduct process run concurrently with a criminal justice investigation and proceeding, except for temporary delays as requested by external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than 10 days except when law enforcement specifically requests and justifies a longer delay.
  - The right to review available evidence in the case file.
  - The right to a range of options for providing testimony via alternative arrangements, including telephone/videoconferencing or testifying with a room partition.
  - The right to exclude prior sexual history or past mental health history from admittance in college disciplinary stage that determines responsibility. Past sexual violence findings may be admissible in the disciplinary stage that determines sanction.
  - The right to ask questions of the decision maker and via the decision maker indirectly request responses from other parties and any other witnesses present.
  - The right to make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.
  - The right to simultaneous (among the parties) written or electronic notification of the outcome of a conduct proceeding, including the sanction(s).

- The right to know the sanction(s) that may be imposed on the accused based upon the outcome of the conduct proceeding and the reason for the actual sanction imposed. For students found responsible for sexual assault, the available sanctions are suspension with additional requirements and expulsion/dismissal.
  - The right to choose whether to disclose or discuss the outcome of a conduct hearing.
- For further information about the Student Conduct process, contact:  
Virginia Taylor, Vice President for Student and Enrollment Services  
One College Rd, C201  
Batavia, NY 14020  
(585) 343-0055 ext 6221  
vmtaylor@genesee.edu

## Confidentially Disclosing Sexual Violence

The State University of New York and Genesee Community College want the victim/survivor to get the information and support he/she needs regardless of whether he/she would like to move forward with a report of sexual violence to campus officials or to police. The victim/survivor may want to talk with someone about something he/she observed or experienced, even if he/she is not sure that the behavior constitutes sexual violence. A conversation where questions can be answered is far superior to keeping something to oneself. Confidentiality varies, and this document is aimed at helping the victim/survivor understand how confidentiality applies to different resources that may be available to them.

### **In this Policy:**

- Privileged and Confidential Resources.
- Privacy versus Confidentiality.
- Requesting Confidentiality: How the College Will Weigh the Request and Respond.
- Public Awareness/Advocacy Events.
- Anonymous Disclosure.
- Institutional Crime Reporting.

### **Privileged and Confidential Resources:**

Individuals who are confidential resources will not report crimes to law enforcement or college officials without permission of the victim/survivor, except for extreme circumstances, such as a health and/or safety emergency. At Genesee Community College, this includes:

- Genesee Community College's Counseling Services  
One College Rd, C209  
Batavia, NY 14020  
585-343-0055, ext. 6219  
[www.genesee.edu/campuslife/counseling](http://www.genesee.edu/campuslife/counseling)

Off-campus options to disclose sexual violence confidentially include (note that these outside options do not provide any information to the campus):

- Off-campus counselors and advocates. Crisis services offices will generally maintain confidentiality unless the victim/survivor requests disclosure and signs a consent or waiver forms. More information on an agency's policies on confidentiality may be obtained directly from the agency.
  - RESTORE Sexual Assault Services of PPCWNY  
222 West Main Street  
Batavia, NY 14020

800-527-1757 Toll-Free Hot Line

- Off-campus healthcare providers
  - United Memorial Medical Center  
127 North Street  
Batavia, New York 14020  
(585) 343-6030

Note that medical office and insurance billing practices may reveal information to the insurance policyholder, including medication and/or examinations paid for or administered. The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency compensation. More information may be found here: [http://www.ovs.ny.gov/files/ovs\\_rights\\_of\\_cv\\_booklet.pdf](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>.

Note that even individuals who can typically maintain confidentiality are subject to exceptions under the law, including when an individual is a threat to him or herself or others and the mandatory reporting of child abuse.

### **Privacy versus Confidentiality**

Even Genesee Community College offices and employees who cannot guarantee confidentiality will maintain the victim/survivor's privacy to the greatest extent possible.

The information the victim/survivor provides to a non-confidential resource will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible under the law for tracking patterns and spotting systemic issues. Genesee Community College will limit the disclosure as much as possible, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored.

### **Requesting Confidentiality: How Genesee Community College Will Weigh the Request and Respond:**

If a victim/survivor discloses an incident to a Genesee Community College employee who is responsible for responding to or reporting sexual violence or sexual harassment, but wishes to maintain confidentiality or does not consent to the institution's request to initiate an investigation, the Title IX Coordinator must weigh the victim/survivor's request against the College's obligation to provide a safe, non-discriminatory environment for all members of our community, including the victim/survivor.

Appropriate College personnel will assist the victim/survivor with academic, housing, transportation, employment, and other reasonable and available accommodations regardless of

the victim/survivor's reporting choices. While victims/survivors may request accommodations through several college offices, the following offices can serve as a primary point of contact to assist with these measures:

Virginia Taylor, Vice President for Student and Enrollment Services  
One College Rd, C201  
Batavia, NY 14020  
(585) 343-0055 ext 6221  
[vmtaylor@genesee.edu](mailto:vmtaylor@genesee.edu)

Gina Weaver, Associate Vice President for Human Resources  
Title IX Coordinator  
One College Rd, C112  
Batavia, NY 14020  
(585) 343-0055, ext. 6514  
[gmweaver@genesee.edu](mailto:gmweaver@genesee.edu)

The College also may take proactive steps, such as training or awareness efforts, to combat sexual violence in a general way that does not identify the victim/survivor or the situation disclosed.

The College may seek consent from the victim/survivor prior to conducting an investigation. The victim/survivor may decline to consent to an investigation, and that determination will be honored unless Genesee Community College's failure to act may result in harm to the victim/survivor or other members of the Genesee Community College community. Honoring the victim/survivor's request may limit the College's ability to meaningfully investigate and pursue conduct action against an accused individual. If the College determines that an investigation is required, the College will notify the victim/survivor and take immediate action as necessary to protect and assist.

When the victim/survivor discloses an incident to someone who is responsible for responding to or reporting sexual violence or sexual harassment, but wishes to maintain confidentiality, Genesee Community College will consider many factors to determine whether to proceed despite that request. These factors include, but are not limited to:

- whether the accused has a history of violent behavior or is a repeat offender;
- whether the incident represents escalation, such as a situation that previously involved sustained stalking,
- the increased risk that the accused will commit additional acts of violence;
- whether the accused used a weapon or force;
- whether the victim/survivor is a minor; and
- whether the College possesses other means to obtain evidence such as security footage, and whether the report reveals a pattern of perpetration at a given location or by a particular group.



### **Public Awareness/Advocacy Events:**

If the victim/survivor discloses a situation through a public awareness event such as “Take Back the Night,” candlelight vigils, protests, or other public event, Genesee Community College is not obligated to begin an investigation. Genesee Community College may use the information the victim/survivor provides to inform the need for additional education and prevention efforts.

### **Anonymous Disclosure:**

Tips on any campus crime can be reported at 585-343-0055 ext. 6500 or anonymously using the Silent Witness Form found at [http://www.genesee.edu/depts/public\\_safety/](http://www.genesee.edu/depts/public_safety/). While the Silent Witness Form allows individuals to make anonymous reports to Campus Safety, victims/survivors are encouraged to include contact information so that appropriate follow up can be given such as resources and referrals. Additionally, individuals should be cautioned that although the Silent Witness is frequently monitored, response may not be immediate.

New York State Hotline for Sexual Assault and Domestic Violence: 1-800-942-6906

### **Institutional Crime Reporting**

Reports of certain crimes occurring in certain geographic locations will be included in the Genesee Community College Clery Act Annual Security Report in an anonymized manner that neither identifies the specifics of the crime or the identity of the victim/survivor.

For information regarding the reports, contact:

Gina Weaver, Associate Vice President for Human Resources  
Title IX Coordinator  
One College Rd  
Batavia, NY 14020  
(585) 343-0055, ext. 6514  
[gmweaver@genesee.edu](mailto:gmweaver@genesee.edu)

Stephen Wise, Director of Campus Safety  
Clery Compliance Coordinator  
One College Rd, B111  
Batavia, NY 14020  
(585) 343-0055 ext. 6847  
[spwise@genesee.edu](mailto:spwise@genesee.edu)

Genesee Community College is obligated to issue timely warnings of Clery Act crimes occurring within relevant geography that represent a serious or continuing threat to students and employees (subject to exceptions when potentially compromising law enforcement efforts and when the warning itself could potentially identify the victim/survivor). A victim/survivor will never be identified in a timely warning.

The Family Educational Rights and Privacy Act allows institutions to share information with parents when (1) there is a health or safety emergency, or (2) when the student is a dependent on either parents' prior year federal income tax return. Generally, Genesee Community College will not share information about a report of sexual violence with parents without the permission of the victim/survivor.

## Policy On Sexual Harassment

Genesee Community College operates under Executive Order #19 which was first issued 1983 and forbids Sexual Harassment in the Workplace. Genesee Community College is committed to enforcing this Executive Order so that all employees may work in an environment that is free of discrimination. Sexual Harassment is an unlawful practice. It is also a violation of:

- Section 703 of Title VII of the Civil Rights Act of 1964, as amended
- The Civil Rights Law of 1991, which makes provisions for victims of sexual harassment
- The New York State Human Rights Law
- Workforce Investment Act of 1998

An essential part of Genesee Community College's Equal Opportunity Commitment is to maintain a working and learning environment in which employees and students are able to work and to learn without physical or verbal harassment of any kind.

Although these federal guidelines and New York State policy apply to sexual harassment in the workplace, both the State University of New York and Genesee Community College policies make them also applicable to students pursuing educational or other activities at Genesee Community College.

Prohibited behavior, which may be either physical or verbal, is defined by the federal guidelines as "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature" when:

1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment,
2. submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual, or
3. such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual harassment is a form of employee misconduct. In order to assure that the College remains free of such behavior, complaints of alleged harassment will be investigated in a swift and thorough manner, and appropriate sanctions will be enforced. Disciplinary action may be taken against individuals and against supervisors and managers who knowingly allow such behavior to continue.

All employees, supervisors and managers will be provided with on-going training regarding Sexual Harassment. Workshops will be held as deemed appropriate and will be scheduled by the Office of Human Resources.

If an employee or a student considers himself or herself to be a victim of such harassment, he or she can file a complaint with the Affirmative Action Officer/Title IX Coordinator in accordance with the College's Discrimination Complaint Procedures.

## Nondiscrimination Policy

In compliance with the letter and spirit of applicable Federal and State laws and pursuing its own goals of diversity, Genesee Community College is committed to ensuring equal employment and educational opportunity without regard to an individual's race, color, national origin, sex, religion, age, disability, gender, pregnancy, gender identity, sexual orientation, predisposing genetic characteristics, marital status, veteran status, military status, domestic violence victim status, or ex-offender status. This includes, but is not limited to, student admissions, counseling, housing, grading, financial aid, recruitment, application process, hiring, training, disciplinary actions, compensation, promotion, termination, and all other terms and conditions of employment, educational status, and access to college programs and activities.

Genesee Community College will provide accommodations to individuals with disabilities in accordance with the Americans with Disabilities Act. The College will further provide accommodations to ensure the full participation of individuals in college programs, when such accommodations are reasonable and necessary, due to an individual's religion, pregnancy, maternity, or breastfeeding status. Employees, students, applicants or other members of the college community (including but not limited to vendors, visitors, and guests) may not be subjected to discrimination or harassment that is prohibited by law, or treated adversely based upon a protected characteristic. In this context, sexual discrimination includes sexual harassment and sexual violence. All complaints of sexual violence, including assault, stalking, harassment, intimate partner violence, and other forms of sexually intimidating or threatening conduct will be promptly investigated.

Questions and complaints about discrimination or harassment and the College's compliance with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, and the Age Discrimination Act of 1975, New York State Human Rights Law, and other federal, state, and local laws should be directed to Gina M. Weaver, Associate Vice President for Human Resources, Affirmative Action Officer and Title IX Coordinator, Genesee Community College, One College Rd, Batavia, NY 14020, Email: [gmweaver@genesee.edu](mailto:gmweaver@genesee.edu), Phone: (585)343-0055, ext.6514. Complaint procedures can be found at [http://www.genesee.edu/content/depts/public\\_safety/policies/Discrimination Grievance Procedures.pdf](http://www.genesee.edu/content/depts/public_safety/policies/Discrimination_Grievance_Procedures.pdf). Inquiries concerning nondiscrimination laws and compliance requirements may also be directed to the Assistant Secretary for Civil Rights, US Department of Education.

## Discrimination Complaint Procedures

### Summary

Genesee Community College, in its continuing effort to seek equity in education and employment and in support of federal and state anti-discrimination legislation, has adopted a complaint procedure for the prompt and equitable investigation and resolution of allegations of unlawful discrimination on the basis of race, color, national origin, religion, creed, age, sex, sexual orientation, disability, gender identity, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction. Harassment is one form of unlawful discrimination on the basis of the above protected categories. The College will take steps to prevent discrimination and harassment, to prevent the recurrence of discrimination and harassment, and to remedy its discriminatory effects on the victim(s) and others, if appropriate. Conduct that may constitute harassment is described in the Definitions section. Sex discrimination includes sexual harassment and sexual violence.

### Applicability

This procedure may be used by any student or employee of the College as well as third-parties who are participating in a College-sponsored program or affiliated activity. Discrimination Complaint/Grievance Procedures established through negotiated collective bargaining agreements, Academic Integrity Review Committee, Student Conduct Committee and any other procedures defined by contract will continue to operate as before. Furthermore, this procedure does not in any way deprive a complainant of the right to file with outside enforcement agencies, such as the New York State Division of Human Rights, the Equal Employment Opportunity Commission, the Office for Civil Rights of the United States Department of Education and the Office of Federal Contract Compliance of the United States Department of Labor. However, after filing with one of these outside enforcement agencies, or upon the initiation of litigation, the complaint will be referred to the Affirmative Action Officer/Title IX Coordinator for investigation. More detailed information may be obtained from the Affirmative Action Officer/Title IX Coordinator.

The Affirmative Action Officer/Title IX Coordinator, shall receive any complaint of alleged discrimination, assist the complainant in the use of the complaint form, and provide the complainant with information about various internal and external mechanisms through which the complaint may be filed, including applicable time limits for filing with each agency.

### Affirmative Action Office / Title IX Coordinator:

Gina M. Weaver, Associate Vice President for Human Resources  
Genesee Community College

Human Resources, C112  
One College Rd  
Batavia, NY 14020  
(585) 343-0055, ext 6514  
gmweaver@genesee.edu

## **Procedure**

The following applies to both the informal and formal processes. This procedure provides a mechanism through which the College may identify, respond to, and prevent incidents of illegal discrimination. The College recognizes and accepts its responsibility in this regard and believes that the establishment of this internal, non-adversarial grievance process will benefit students, faculty, staff, and administration, permitting investigation and resolution of problems without resorting to the frequently expensive and time-consuming procedures of state and federal enforcement agencies or courts.

Genesee Community College reserves the right to pursue any complaint of discrimination about which it becomes aware. Based on information received, the Affirmative Action Officer/Title IX Coordinator may exercise her/his discretion and initiate a complaint on behalf of the Campus community, regardless of complainant cooperation or involvement.

The Affirmative Action Officer/Title IX Coordinator is available to assist in preparing the complaint. They will ensure that complainants are aware of their Title IX rights and available resources on and off-campus, and the right, if any, to file a complaint with local law enforcement.

Genesee Community College will comply with law enforcement requests for cooperation and such cooperation may require the campus to temporarily suspend the fact-finding aspect of an investigation while the law enforcement agency is in the process of gathering evidence. The campus will resume its investigation as soon as it is notified by the law enforcement agency that it has completed the evidence gathering process. Genesee Community College will implement appropriate interim steps during the law enforcement agency's investigation period to provide for the safety of the victim(s) and the campus community.

The complainant is not required to pursue the College internal procedures before filing a complaint with a state or federal agency. In addition, if the complainant chooses to pursue the College internal procedure, the complainant is free to file a complaint with the appropriate state or federal agency at any point during the process.

During any portion of the procedures detailed hereafter, the parties shall not employ audio or video taping devices. Complaints and investigations will be kept confidential to the extent possible.

Retaliation against a person who files a complaint, serves as a witness, or assists or participates in any manner in this procedure is strictly prohibited and may result in disciplinary action. Retaliation is an adverse action taken against an individual as a

result of complaining about unlawful discrimination or harassment, exercising a legal right, and/or participating in a complaint investigation as a third-party witness. Participants who experience retaliation should contact the campus Affirmative Action Officer/Title IX Coordinator.

### Complaint Consultation and Review

Any student or employee, or any third party may consult with the Affirmative Action Officer/Title IX Coordinator regarding potential discrimination or harassment. This initial contact may occur by telephone, e-mail, or in person--the latter being preferred. The Affirmative Action Officer/Title IX Coordinator will assist the individual in understanding the nature of the incident, the complaint process, resources available to the individual, and other options to resolve the issue. Assistance will be available whether or not a formal complaint is contemplated or even possible.

It is the responsibility of the Affirmative Action Officer/Title IX Coordinator to respond to all such inquiries, reports and requests as promptly as possible and in a manner appropriate to the particular circumstances. This response may include interim measures to protect the parties during the investigation process. Interim measures will not disproportionately impact the complainant. Interim measures for students may include but is not limited to information about how to obtain counseling and academic assistance in the event of sexual assault, and steps to take if the accused individual lives on campus and/or attends class with the complainant. Interim measures involving

employees in collective bargaining units should be determined in consultation with the Executive Vice President for Planning and Institutional Effectiveness.

Employees who observe or become aware of acts of discrimination or harassment, including sex discrimination, sexual harassment and sexual violence, should report this information to the Affirmative Action Officer/Title IX Coordinator. If the complaints or concerns are reported to and/or observed by an administrator, manager or supervisor or an employee with either Title IX compliance responsibilities or the authority to take action to redress the harassment, they shall be immediately referred to the Affirmative Action Officer/Title IX Coordinator. Complaints of sexual violence will not be resolved by using mediation, but instead must be referred immediately to the campus Affirmative Action Officer/Title IX Coordinator. The complainant will not be required to resolve the problem directly with the respondent in cases of sex discrimination.

### Filing Complaints and Time Limits

Although in rare instances verbal complaints may be acted upon, the procedures set forth here rest upon the submission of a written complaint that will enable there to be a full and fair investigation of the facts. It is the complainant's responsibility to be certain that any complaint is filed within the applicable time limit.

If the complainant brings a complaint beyond the period in which the complaint may be addressed under these procedures, the Affirmative Action Officer/Title IX may terminate



any further processing of the complaint or direct the complainant to an alternative forum (Appendix A). Complaints of sex discrimination brought beyond the 90-day period will be tracked and investigated to the extent possible consistent with the campus Title IX obligations, including the duty to spot patterns and address systemic issues. Additionally, the Affirmative Action Officer/Title IX Coordinator will ensure that complainants in sex discrimination cases are made aware of their Title IX rights, available remedies and resources on and off-campus, interim remedies, and the right, if any, to file a complaint with local law enforcement.

All complaints must be submitted on the forms provided by the College. (Appendix B) The Charge of Discrimination form will be used for both the initiation of complaints under the informal procedure and the conversion of the complaint to the formal procedure.

The Affirmative Action Officer/Title IX Coordinator is available to assist in preparing the complaint. They will ensure that complainants are aware of their Title IX rights and available resources on and off-campus (such as counseling, local rape crisis center), and the right, if any, to file a complaint with local law enforcement. Campuses will comply with law enforcement requests for cooperation and such cooperation may require the campus to temporarily suspend the fact-finding aspect of an investigation while the law enforcement agency is in the process of gathering evidence. The campus will resume its Title IX investigation as soon as it is notified by the law enforcement agency that it has completed the evidence gathering process. Genesee Community College will implement appropriate, reasonable, and available interim steps during the law enforcement agency's investigation period to provide for the safety of the complainant and the campus community.

As soon as reasonably possible after the date of filing of the complaint, the Affirmative Action Officer/Title IX Coordinator will mail a notice of the complaint and a copy of the complaint to the Respondent(s).

*Employees:* Employees must file a written complaint with the Affirmative Action Officer/Title IX Coordinator within 90 calendar days following the alleged discriminatory act or the date on which the complainant first knew or reasonably should have known of such act.

*Students:* Students must file a complaint within 90 calendar days following the alleged discriminatory act or 90 calendar days after a final grade is received, for the semester during which the discriminatory acts occurred, if that date is later.

### Complaint Contents

The complaint shall contain:

9. The name, local and permanent address(es), telephone number(s), and status (faculty, staff, student, third party) of the complainant.

10. A statement of facts explaining what happened and what the complainant believes constituted the unlawful discriminatory acts in sufficient detail to give each Respondent reasonable notice of what is claimed against him/her. The statement should include the date, approximate time and place where the alleged acts of unlawful discrimination or harassment occurred. If the acts occurred on more than one date, the statement should also include the last date on which the acts occurred as well as detailed information about the prior acts. The names of any potential witnesses should be provided.
11. The name(s), address(es) and telephone number(s) of the respondent(s), i.e., the person(s) claimed to have committed the act(s) of unlawful discrimination.
12. Identification of the status of the persons charged whether faculty, staff, or student.
13. A statement indicating whether or not the complainant has filed or reported information concerning the incidents referred to in the complaint with a non-campus official or agency, under any other complaint or complaint procedure. If an external complaint has been filed, the statement should indicate the name of the department or agency with which the information was filed and its address.
14. A description of any corrective or remedial action that the complainant would like to see taken.
15. Such other or supplemental information as may be requested.

Signature of complainant and the date complaint signed.

### Informal Resolution

If a complainant elects to have the matter dealt with in an informal manner, the Affirmative Action Officer/Title IX Coordinator will attempt to reasonably resolve the problem to the mutual satisfaction of the parties.

In seeking an informal resolution, the Affirmative Action Officer/Title IX Coordinator shall attempt to review all relevant information, interview pertinent witnesses, and bring together the complainant and the respondent, if desirable. If a resolution satisfactory to both the complainant and the respondent is reached within 24 calendar days from the filing of the complaint, through the efforts of the Affirmative Action Officer/Title IX Coordinator, the officer shall close the case, sending a written notice to that effect to the complainant and respondent. The written notice, a copy of which shall be attached to the original complaint form in the officer's file, shall contain the terms of any agreement reached by complainant and respondent, and shall be signed and dated by the complainant, the respondent and the Affirmative Action Officer/Title IX Coordinator. (See Forms for the Memorandum: Status - Resolved form)

If the Affirmative Action Officer/Title IX Coordinator is unable to resolve the complaint to the mutual satisfaction of the complainant and respondent within 24 calendar days from the filing of the complaint, the Affirmative Action Officer/Title IX Coordinator shall so notify the complainant. The Affirmative Action Officer/Title IX Coordinator shall again advise the complainant of his or her right to proceed to the next step internally and/or the right to separately file with appropriate external enforcement agencies.

The time limitations set forth above may be extended by mutual agreement of the complainant and respondent with the approval of the Affirmative Action Officer/Title IX Coordinator. Such extension shall be confirmed in writing by the complainant and respondent. The Affirmative Action Officer/Title IX Coordinator will also have the discretion to reasonably extend the deadlines if an investigation is deemed complex.

The complainant may elect to proceed to the formal resolution procedure at any time after the Charge of Discrimination form is filed.

### Formal Resolution

The formal complaint proceeding is commenced by the filing of a complaint form as described above. The 90 day time limit also applies to the filing of a formal complaint. If the complainant first pursued the informal process and subsequently wishes to pursue a formal complaint, he/she may do so by checking the appropriate box, and signing and dating the complaint form.

*Notice to Parties:* Upon receipt of a complaint, the Affirmative Action Officer/Title IX Coordinator will provide an initialed, signed, date-stamped copy of the complaint to the Complainant. As soon as reasonably possible after the date of filing of the complaint, the Affirmative Action Officer/Title IX Coordinator will mail a notice of complaint and a copy of the complaint to the Respondent(s). Alternatively, such notice with a copy of the complaint may be given by personal delivery, provided such delivery is made by the Affirmative Action Officer/Title IX Coordinator (or designee) and, that proper proof of such delivery, including the date, time and place where such delivery occurred is entered in the records maintained by or for the Affirmative Action Officer/Title IX Coordinator.

*Tripartite Panel Selection:* Within 7 calendar days of receipt of the complaint, the Affirmative Action Officer/Title IX Coordinator shall send notification to the Complainant, the Respondent and the President that a review of the matter shall take place by a tripartite panel to be selected by the President or his/her designee.

The tripartite panel members shall choose a chair among themselves. Selection must be completed and written notification of designees submitted to the Affirmative Action Officer/Title IX Coordinator no later than 7 calendar days after the complainant, the respondent and the campus president received notice.

*Panel Review:* The tripartite panel shall review all relevant information, interview pertinent witnesses and, at their discretion, hear testimony from and bring together the complainant and the respondent, if desirable. Both the complainant and the respondent(s) shall be entitled to submit written statements or other relevant and material evidence and witnesses, and to provide rebuttal to the written record compiled by the tripartite panel. Complainant has the right to request alternative arrangements if the complainant does not want to be in the same room as the accused. These

alternative arrangements must be consistent with the rights of the accused, and must enable both parties and the panel to hear each other during any hearing.

*Findings and Recommendations:* Within 15 calendar days from the completion of selection of the panel, the chairperson of the tripartite panel shall submit a summary of its findings and the panel's recommendation(s) for further action, on a form to be provided by the Affirmative Action Officer/Title IX Coordinator, to the President. The burden of proof in cases of sex discrimination is preponderance of the evidence. When the panel transmits the summary of its Findings and the panel's recommendations to the President, the panel will also send, concurrently, copies of both the summary of its findings and recommendation(s) to the Complainant, Respondent and the Affirmative Action Officer/Title IX Coordinator.

Within 10 calendar days of receipt of the written summary, the President or designee shall issue a written statement to the complainant and respondent, indicating what action the President proposes to take. The action proposed by the President or designee may consist of:

- a. A determination that the complaint was not substantiated. b. A determination that the complaint was substantiated.
  - i. For employees (including student employees) not in a collective bargaining unit: The President may take such administrative action as he/she deems appropriate under his/her authority as the chief administrative officer of the college, including but not limited to termination, demotion, reassignment, suspension, reprimand, or training.
  - ii. For students: The President may determine that sufficient information exists to refer the matter to the student judiciary or other appropriate disciplinary panel for review and appropriate action under the appropriate student conduct code. For examples of sanctions, please see the relevant section of the applicable student code of conduct.
  - iii. For employees in collective bargaining units: The President may determine that sufficient information exists to refer the matter to his/her designee for investigation and disciplinary action or other action as may be appropriate under the applicable collective bargaining agreement. The disciplinary process and potential outcomes are described in the applicable collective bargaining agreements.

The action of the President (or designee) shall be final for purposes of this discrimination procedure.

*Notice of outcome:* No later than 7 calendar days following issuance of the statement by the President, as the case may be, the Affirmative Action Officer/Title IX Coordinator shall issue a letter to the complainant and to the respondent(s) advising them that the

matter, for purposes of this discrimination procedure, is closed.

*Time limitations:* The time limitations set forth above may be extended by mutual agreement of the complainant and respondent with the approval of the panel. The panel will also have the discretion to reasonably extend the deadlines if an investigation is deemed complex. Such extension shall be confirmed in writing.

*External Agencies:* If the complainant is dissatisfied with the president's decision, the complainant may elect to file a complaint with one or more state and federal agencies. The campus Affirmative Action Officer/Title IX Coordinator will provide general information on state and federal guidelines and laws, as well as names and addresses of various enforcement agencies (Appendix A).

## **Definitions**

**Harassment on the Basis of Protected Characteristic(s) other than Sex/Gender** – harassment based on race, color, age, religion, national origin, disability, sexual orientation or other protected characteristics is oral, written, graphic or physical conduct relating to an individual's protected characteristics that is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the educational institution's programs or activities.

**Sex Discrimination** – behaviors and actions that deny or limit a person's ability to benefit from, and/or fully participate in the educational programs or activities or employment opportunities because of a person's sex. This includes but is not limited to sexual harassment, sexual assault, sexual violence by employees, students, or third parties. Employees should report sexual harassment that they observe or become aware of to the Affirmative Action Officer/Title IX Coordinator.

**Sexual assault** is defined as a physical sexual act or acts committed against a person's will and consent or when a person is incapable of giving active consent, incapable of appraising the nature of the conduct, or incapable of declining participation in, or communicating unwillingness to engage in, a sexual act or acts. Sexual assault is an extreme form of sexual harassment.\* Sexual assault includes what is commonly known as "rape," whether forcible or non-forcible, "date rape" and "acquaintance rape." Nothing contained in this definition shall be construed to limit or, conflict with the sex offenses enumerated in Article 130 of the New York State Penal Law, which shall be the guiding reference in determining if alleged conduct is consistent with the definition of sexual assault.

**Sexual Harassment in the Educational Setting** – unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment of a student denies or limits, on the basis of sex, the student's ability

to participate in or to receive benefits, services, or opportunities in the educational institution's program.

**Sexual Harassment in the Employment Setting** – unwelcome sexual advances, requests for sexual favors, or verbal or physical conduct of a sexual nature when any of the following occurs:

- Submission to such conduct is made a term or condition of an individual's continued employment, promotion, or other condition of employment.
- Submission to or rejection of such conduct is used as a basis for employment decisions affecting an employee or job applicant.
- Such conduct is intended to interfere, or results in interference, with an employee's work performance, or creates an intimidating, hostile, or offensive work environment.

**Sexual Violence** - physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent.

**Preponderance of the Evidence** – the standard of proof in sexual harassment and sexual assault cases, which asks whether it is “more likely than not” that the sexual harassment or sexual violence occurred. If the evidence presented meets this standard, then the accused should be found responsible.

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

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. SUNY Genesee recognizes that students who have been drinking and/or using drugs (whether such 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. SUNY Genesee strongly encourages students to report incidents of domestic violence, dating violence, stalking, or sexual assault to campus officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to SUNY Genesee's officials or law enforcement will not be subject to SUNY Genesee's code of conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

## Good Samaritan Policy

The health, safety and well-being of every member of the College community is the highest priority of the College. The College aims to provide assistance and support to the members of its community, and its students are expected to “Stand Up” for each other and take action by seeking assistance in the event of a medical emergency, or when they perceive that a member of the community may be in danger.

In instance of life threatening medical emergencies related to a possible alcohol or drug overdose:

- Students who in good faith contact College authorities or emergency medical responders about the need for medical attention for others will be exempt from student conduct sanctions for the possession and consumption of alcohol or drugs;
- Students for whom medical attention is sought through College authorities or emergency medical responders may be exempt from student conduct sanctions for the possession and consumption of alcohol or drugs; and
- Students who contact College authorities or emergency medical responders for their own personal medical needs may be exempt from student conduct sanctions for the possession and consumption of alcohol or drugs.

This does not preclude conduct action for other violations of the Student Code of Conduct associated with underage drinking or drug use.

Conversely, the College will consider the failure to seek emergency assistance as a factor when determining the appropriateness of institutional action.

To fall under the scope of this policy, the student who seeks assistance for another student must:

- Remain where they are, or remain with the individual requiring emergency care; and
- Identify themselves to, provide information to, and comply with, the directives of the responding College Safety Officers or other College officials.

In addition, the students for whom assistance is sought must subsequently agree to timely completion of recommended alcohol education activities, assessment and/or treatment such as BASICS (Brief Alcohol Screening and Intervention for College Students.) Failure to complete the prescribed course of action may result in conduct action.

Students should also be aware that this policy does not prevent action by law enforcement authorities.



Student bystanders and victims/survivors who have been drinking and/or using drugs (whether such use is voluntary or involuntary) reporting in good faith an act of sexual violence or a victim/survivor reporting sexual violence to SUNY Genesee officials or law enforcement **will not be subject to campus conduct actions** for violations of alcohol and/or drug use policies occurring at or near the time of the sexual violence.

In circumstances where an organization recognized or sponsored by the College is found to be hosting an event where emergency assistance is requested, the willingness to seek assistance may be viewed as a mitigating factor in determining group conduct sanctions.

## Definition of Affirmative Consent

Affirmative consent is a knowing, voluntary and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in 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 act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent may be initially given but withdrawn at any time. Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm. When consent is withdrawn or cannot be given, sexual activity must stop.

Affirmative consent may be withdrawn at any time without fear of **retaliation**. Retaliation is defined as any intimidating, harassing, or retributive action including but not limited to violence, threats of violence, property destruction, adverse educational or employment consequence, and bullying of any person for reporting a violation or for participating in any way in the investigation or conduct process.