

# Sexual Misconduct Policy

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# Sexual Misconduct Policy

**Responsible Executives:** Vice President for Administration, Title IX Coordinator

**Responsible Office:** Executive Administration and Advancement Unit

**Effective:** 11/7/2023

**Last Reviewed:** 11/7/2023; (Replaces Sexual Harassment Prevention Policy last reviewed 10/12/2018)

**Revised:** 11/7/2023

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## POLICY STATEMENT<sup>1</sup>

HJ International Graduate School for Peace and Public Leadership (“HJI” or the “Institution”) is committed to maintaining a workplace and educational environment free from all forms of harassment and unlawful discrimination while we simultaneously strive to foster deeper understanding, contextualization and application of the Unification worldview within a world of diverse faiths. Preventing sexual harassment is one aspect of HJI’s commitment to hold one another to the highest moral and ethical standards.

Sexual harassment is a form of discrimination that subjects an employee to inferior conditions of employment or prevents a student from equal participation in an educational program due to their gender.

Sexual harassment is often viewed simply as a form of gender-based discrimination, but HJI recognizes that discrimination can be related to or affected by other identities beyond gender, such as race, age, or disability.

The purpose of this policy is to teach students and employees to recognize unlawful discrimination and provide the tools to take action when it occurs. All employees, managers, and supervisors are required to work in a manner designed to prevent sexual harassment and unlawful discrimination in the workplace. This policy is one component of HJI’s commitment to a fair and just work and educational environment that is free from unlawful discrimination.

HJI does not discriminate on the basis of sex in the education programs or activities that it operates. The HJI guidelines against discrimination in its education programs and activities

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<sup>1</sup> Adopted with adaptations from New York State Sexual Harassment Model Policy, <https://www.ny.gov/combatting-sexual-harassment-workplace/sexual-harassment-prevention-model-policy-and-training>.

extends as well to admissions and employment. Inquiries about the application of Title IX to the Institution may be referred to HJI's Title IX Coordinator, to the Assistant Secretary of the Office of Civil Rights at the United States Department of Education, or both.<sup>2</sup>

Contact information for the Title IX Coordinator is provided below. Contact information for other resources is provided in Appendix B.

Lynn Walsh  
Title IX Coordinator  
4 West 43<sup>rd</sup> Street  
New York, NY 10036  
Phone: (212) 563-6647 ext. 120  
Email: l.walsh@uts.edu

Consistent with its employment policies and Student Code of Conduct, HJI has a zero-tolerance policy on sexual harassment. Any student, employee, or other individual covered by this Policy who engages in unlawful sexual harassment or retaliation will be subject to remedial and/or disciplinary action, up to and including termination, expulsion, and legal action.<sup>3</sup> This policy will be administered in accordance with federal, state, and local regulations as well as HJI's mission statement and core values of the Unification faith.

## **SCOPE**

This Policy applies to the entire HJI community, including all students, faculty, employees, staff, applicants for employment, interns, whether paid or unpaid, contractors, and persons conducting business with HJI.

This Policy applies to complaints and reports regarding sexual harassment and misconduct. HJI's Discrimination and Harassment Policy should be consulted for any complaints and reports of discrimination and harassment based on other protected classes. The Title IX Coordinator can address questions regarding which policy applies in a particular case.

## **DEFINITIONS**

**Advisor:** An Advisor is an individual who may be selected by each party or by HJI to advise and support the Complainant or Respondent throughout any grievance process related to sexual harassment. An Advisor may be, but is not required to be, an attorney, and will be afforded the opportunity to be present in or to accompany the Complainant or Respondent they represent to

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<sup>2</sup> 34 CFR §106.8(b)(1).

<sup>3</sup> Adopted with adaptations from New York State Sexual Harassment Model Policy, <https://www.ny.gov/combatting-sexual-harassment-workplace/sexual-harassment-prevention-model-policy-and-training>.

any related meeting or grievance proceeding.<sup>4</sup> An Advisor may inspect and review any evidence obtained as part of the investigation.<sup>5</sup> During a live hearing, Advisors are permitted to ask the other party and any witnesses all relevant questions and follow-up questions.<sup>6</sup>

***Affirmative Consent:*** Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.<sup>7</sup>

- 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 that follows.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- Consent may be initially given but withdrawn at any time.
- Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- When consent is withdrawn or can no longer be given, sexual activity must stop.<sup>8</sup>

***Complainant:*** A Complainant is an individual who is alleged to be the victim of conduct that could constitute sexual harassment.<sup>9</sup>

***Confidentiality:*** Confidentiality may be offered by an individual who is not required by law to report known incidents of sexual assault or other crimes to institution officials, in a manner consistent with state and federal law, including but not limited to 20 USC 1092(f) and 20 USC 1681(a). Pastoral counselors are examples of HJI employees who recognize the importance of maintaining confidentiality and may offer reliable assurances to respect confidentiality. Even HJI offices and employees who cannot guarantee confidentiality because of reporting requirements will otherwise maintain confidentiality. The information you provide to a resource with reporting

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<sup>4</sup> 34 CFR §106.45(b)(5)(iv).

<sup>5</sup> 34 CFR §106.45(b)(5)(vi).

<sup>6</sup> 34 CFR §106.45(b)(6)(i).

<sup>7</sup> NY Education Law Article 129-B, Enough is Enough, §6441(1).

<sup>8</sup> NY Education Law Article 129-B, Enough is Enough, §6441(2).

<sup>9</sup> 34 CFR §106.30(a).

responsibilities will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution.<sup>10</sup>

***Dating Violence:*** Dating violence means violence committed by a person—(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship, (ii) the type of relationship, (iii) the frequency of interaction between the persons involved in the relationship.<sup>11</sup>

***Decision-maker:*** The Decision-maker(s) determine if the Respondent violated this policy and issue a written determination regarding responsibility. The Decision-maker(s) may not be the Title IX Coordinator nor an Investigator.

***Domestic Violence:*** Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.<sup>12</sup>

***Education Program or Activity:*** An education program or activity of the Institution constitutes locations, events, or circumstances over which the Institution exercised substantial control over both the Respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by HJI.<sup>13</sup>

***Formal Complaint:*** A formal complaint is a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the Institution investigate the allegation of sexual harassment. At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the Institution with which the formal complaint is filed. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator, and by any additional method designated by the Institution. As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the Institution) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a formal complaint, the

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<sup>10</sup> NY Education Law Article 129-B, Enough is Enough, §6439(5) and §6444(1)(a).

<sup>11</sup> 34 USC §12291(a)(10).

<sup>12</sup> 34 USC §12291(a)(8).

<sup>13</sup> 34 CFR §106.44(a).

Title IX Coordinator is not a Complainant or otherwise a party under 34 CFR 106.45, and must comply with the requirements of 34 CFR 106, including 34 CFR 106.45(b)(1)(iii).<sup>14</sup>

**Investigator:** The Investigator(s) is the person(s) designated by HJI to investigate allegations of sexual misconduct. Investigators create an investigative report that fairly summarizes relevant evidence.<sup>15</sup> The Investigator(s) may be the Title IX Coordinator or externally hired, but may not be the Decision-maker(s).

**Privacy:** Privacy may be offered by an individual when such individual is unable to offer confidentiality under the law but shall still not disclose information learned from a reporting individual or bystander to a crime or incident more than necessary to comply with NY Education Law Article 129-B and other applicable laws, including informing appropriate HJI officials.<sup>16</sup>

**Respondent:** A Respondent is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.<sup>17</sup>

**Sexual Assault:** Sexual assault means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.<sup>18</sup>

**Sexual Harassment:** There are several definitions of sexual harassment under federal and state laws. See Section A of the Policy below.

**Stalking:** Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to—(A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress.<sup>19</sup>

**Supportive Measures:** Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the Institution's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the Institution's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, provisions to assure avoidance of making contact or engaging in any fraternization between the Complainant or Respondent, and other similar measures. The Institution will maintain as confidential any supportive measures provided to the Complainant or

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<sup>14</sup> 34 CFR §106.30(a).

<sup>15</sup> 34 CFR §106.45(b)(5)(vii).

<sup>16</sup> NY Education Law Article 129-B, Enough is Enough, §6439(6).

<sup>17</sup> 34 CFR §106.30(a).

<sup>18</sup> 20 USC §1092(f)(6)(A)(v).

<sup>19</sup> 34 USC §12291(a)(30).

Respondent, to the extent that maintaining such confidentiality would not impair the ability of the Institution to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.<sup>20</sup>

***Title IX Coordinator:*** The Title IX Coordinator is the employee designated by HJI to coordinate and oversee the Institution’s compliance with Title IX as well as relevant aspects of state and local laws.

## **POLICY**

### **A. Definitions of Sexual Harassment**

Sexual harassment is defined in multiple ways under federal and state laws, including, but not limited to: Title IX, Title VII, and New York State Human Rights Law (NYSHRL), provided below.

#### **Title IX**

Under Title IX, 34 CFR 106.30, sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- An employee of the Institution conditioning the provision of an aid, benefit, or service of HJI on an individual’s participation in unwelcome sexual conduct;
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the Institution’s education program or activity; or
- “Sexual assault” as defined in 20 USC 1092(f)(6)(A)(v), “dating violence” as defined in 34 USC 12291(a)(10), “domestic violence” as defined in 34 USC 12291(a)(8), or “stalking” as defined in 34 USC 12291(a)(30). These terms are defined in the Definitions section above.

#### **Title VII**

Under Title VII, 29 CFR 1604.11, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment;
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- 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.

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<sup>20</sup> 34 CFR §106.30(a).

## **New York State Human Rights Law**

Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment or denies them equal access to an educational program or activity. Harassment does not need to be severe or pervasive to be illegal. It can be any harassing behavior that rises above petty slights or trivial inconveniences. Every instance of harassment is unique to those experiencing it, and there is no single boundary between petty slights and harassing behavior. However, the Human Rights Law specifies that whether harassing conduct is considered petty or trivial is to be viewed from the standpoint of a reasonable victim of discrimination with the same protected characteristics. Generally, any behavior in which an employee or covered individual is treated worse because of their gender is considered a violation of HJI policy.

The intent of the behavior, for example, making a joke, does not neutralize a harassment claim. Not intending to harass is not a defense. The impact of the behavior on a person is what counts. Sexual harassment includes any unwelcome conduct which is either directed at an individual because of that individual's gender or is of a sexual nature when:

- The purpose or effect of this behavior unreasonably interferes with an individual's work or educational performance or creates an intimidating, hostile or offensive work or educational environment. The impacted person does not need to be the intended target of the sexual harassment;
- Employment depends implicitly or explicitly on accepting such unwelcome behavior; or
- Decisions regarding an individual's employment are based on an individual's acceptance to or rejection of such behavior. Such decisions can include what shifts and how many hours an employee might work, project assignments, as well as salary and promotion decisions.

There are two main types of sexual harassment:

- Behaviors that contribute to a hostile work environment include, but are not limited to, words, signs, jokes, pranks, intimidation, or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex or gender. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory, or discriminatory statements which an employee finds offensive or objectionable, causes an employee discomfort or humiliation, or interferes with the employee's job performance.
- Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions, or privileges of employment. This is also called quid pro quo harassment.



Any student, employee or other covered individual who feels harassed is encouraged to report the behavior so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be discrimination and is covered by this policy.

## **B. Examples of Sexual Harassment<sup>21</sup>**

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical assaults of a sexual nature, such as:
  - Touching, pinching, patting, grabbing, brushing against another individual's body or poking another individual's body;
  - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
  - Requests for sexual favors accompanied by implied or overt threats concerning the victim's academic performance or job performance evaluation, a promotion or other academic or job benefits or detriments;
  - Subtle or obvious pressure for unwelcome sexual activities; or
  - Repeated requests for dates or romantic gestures, including gift-giving.
- Sexually oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience, which create a hostile academic or work environment.
- Sexual or discriminatory displays or publications anywhere in the classroom or workplace, such as:
  - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the classroom or workplace.
  - This also extends to the virtual or remote workspace and can include having such materials visible in the background of one's home during a virtual class or meeting.
- Hostile actions taken against an individual because of that individual's sex or gender, such as:
  - Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;

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<sup>21</sup> Adopted with adaptations from New York State Sexual Harassment Model Policy, <https://www.ny.gov/combatting-sexual-harassment-workplace/sexual-harassment-prevention-model-policy-and-training>.

- Sabotaging an individual’s work;
- Bullying, yelling, name-calling.

### **C. Protections Against Retaliation**

Under Title IX, neither the Institution nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or 34 CFR 106, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under 34 CFR 106. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or this part, constitutes retaliation.<sup>22</sup>

The exercise of free speech and expression rights protected under the First Amendment may not constitute retaliation.<sup>23</sup> Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under 34 CFR 106 does not constitute retaliation prohibited under this section, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.<sup>24</sup>

Under NYSHRL, no person covered by this Policy shall be subject to adverse employment action including being discharged, disciplined, discriminated against, or otherwise subject to adverse employment action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. HJI has a zero-tolerance policy for such retaliation against anyone who, in good faith, complains or provides information about suspected sexual harassment. Any employee of HJI who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. Any employee, paid or unpaid intern, or non-employee<sup>25</sup> working in the workplace who believes they have been subject to such retaliation should inform a supervisor, manager, or the Title IX Coordinator. Any employee, paid or unpaid intern or non-employee who believes they have been a victim of such retaliation may also seek

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<sup>22</sup> 34 CFR §106.71(a).

<sup>23</sup> 34 CFR §106.71(b)(1).

<sup>24</sup> 34 CFR §106.71(b)(2).

<sup>25</sup> A non-employee is someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace. Protected non-employees include persons commonly referred to as independent contractors, “gig” workers and temporary workers. Also included are persons providing equipment repair, cleaning services or any other services provided pursuant to a contract with the employer.

compensation in other available forums, as explained below in the section on Legal Protections.<sup>26</sup>

Unlawful retaliation can be any action that would keep a worker from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation. Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in “protected activity.” Protected activity occurs when a person has:

- Filed a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- Testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
- Opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- Complained that another employee has been sexually harassed; or
- Encouraged a fellow employee to report harassment.<sup>27</sup>

#### **D. Supervisory Responsibilities<sup>28</sup>**

As mandated by the State of New York, managers and supervisors are required to report any complaint that they receive, or any harassment that they observe to the Title IX Coordinator.

All supervisors, managers, faculty, and other employees who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, are required to report such suspected sexual harassment to the Title IX Coordinator.

In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors, managers, and faculty will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

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<sup>26</sup> Adopted with adaptations from New York State Sexual Harassment Model Policy, <https://www.ny.gov/combatting-sexual-harassment-workplace/sexual-harassment-prevention-model-policy-and-training>.

<sup>27</sup> Adopted from New York State Sexual Harassment Model Policy, <https://www.ny.gov/combatting-sexual-harassment-workplace/sexual-harassment-prevention-model-policy-and-training>.

<sup>28</sup> Adopted with adaptations from New York State Sexual Harassment Model Policy, <https://www.ny.gov/combatting-sexual-harassment-workplace/sexual-harassment-prevention-model-policy-and-training>.

Supervisors, managers, faculty, and other employees will also be subject to discipline for engaging in any retaliation.

#### **E. Reporting Sexual Harassment**

Individuals have the right to make a report to HJI security, local law enforcement, and/or state police or choose not to report; to report the incident to the Title IX Coordinator; to be protected by HJI from retaliation for reporting an incident; and to receive assistance and resources from HJI.<sup>29</sup>

All students and employees are encouraged to report any harassment or behaviors that violate this policy. HJI will provide all Complainants a complaint form for students and employees to report harassment and file complaints.<sup>30</sup>

Preventing sexual harassment is everyone's responsibility. HJI cannot prevent or remedy sexual harassment unless it knows about it. Any student, faculty member, employee, paid or unpaid intern or nonemployee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, manager, the Dean of Enrollment Management and Student Life, the Associate Provost, the Provost, the Vice President for Administration, or the Title IX Coordinator. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to the Title IX Coordinator.<sup>31</sup>

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all individuals are encouraged to use this complaint form. Individuals who are reporting sexual harassment on behalf of others should use the complaint form and note that it is on another individual's behalf.<sup>32</sup>

Students, employees, paid or unpaid interns or non-employees who believe they have been a victim of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.<sup>33</sup>

#### **F. Alcohol and/or Drug Use Amnesty**

The health and safety of every student at HJI is of utmost importance. HJI recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or

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<sup>29</sup> NY Education Law Article 129-B, Enough is Enough, §6444(2).

<sup>30</sup> Adopted with adaptations from New York State Sexual Harassment Model Policy, <https://www.ny.gov/combating-sexual-harassment-workplace/sexual-harassment-prevention-model-policy-and-training>.

<sup>31</sup> Ibid.

<sup>32</sup> Ibid.

<sup>33</sup> Ibid.

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. HJI strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to Institution officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to HJI's officials or law enforcement will not be subject to HJI'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.<sup>34</sup>

### **G. General Response to Sexual Harassment**

When the Institution has actual knowledge of sexual harassment in an education program or activity of the Institution's against a person in the United States, the Institution will respond promptly and deliberately. The Institution will treat Complainants and Respondents equitably by offering supportive measures (defined above) to a Complainant, and by following the Institution's grievance process set forth in this policy before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a Respondent. The Title IX Coordinator will promptly contact the Complainant to discuss the availability of supportive measures, consider the Complainant's wishes with respect to supportive measures, inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the Complainant the process for filing a formal complaint.<sup>35</sup>

### **H. No-Contact Orders**

When the accused or respondent is a student, HJI may issue a "no contact order" consistent with institution policies and procedures, whereby continued intentional contact between the reporting individual and Respondent would be a violation of Institution policy subject to additional conduct charges. Both the accused or Respondent and the reporting individual will, upon request and consistent with institution policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of a no-contact order, including potential modification, and will be allowed to submit evidence in support of his or her request.<sup>36</sup>

### **I. Response to a Formal Complaint of Sexual Harassment**

In response to a formal complaint, the Institution will follow the grievance process outlined in this policy.<sup>37</sup>

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<sup>34</sup> NY Education Law Article 129-B, Enough is Enough, §6442.

<sup>35</sup> 34 CFR §106.44(a).

<sup>36</sup> NY Education Law Article 129-B, Enough is Enough, §6444(4)(a).

<sup>37</sup> 34 CFR §106.44(b)(1).

A Respondent may be removed from the Institution's education program or activity on an emergency basis, provided that the Institution undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.<sup>38</sup>

## **J. Informal Resolution**

After a complaint has been filed, the Complainant and Respondent may seek an informal resolution process that does not require a full investigation and live hearing.

HJI may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Similarly, HJI does not require the parties to participate in an informal resolution process and will not offer an informal resolution process unless a formal complaint is filed.<sup>39</sup>

However, at any time prior to reaching a determination regarding responsibility, HJI may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that HJI:

- i. Provides to the parties a written notice disclosing:
  - a. the allegations;
  - b. the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint; and
  - c. any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared; and
- ii. Obtains the parties' voluntary, written consent to the informal resolution process; and
- iii. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.<sup>40</sup>

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<sup>38</sup> 34 CFR §106.44(c).

<sup>39</sup> 34 CFR §106.45(b)(9).

<sup>40</sup> 34 CFR §106.45(b)(9)(i)-(iii).

To the extent possible, informal resolutions should be completed within thirty (30) days of receiving both parties' voluntary, written consent to the informal resolution process.

## **K. Confidentiality**

Individuals who believe they may have experienced violations of this Policy are encouraged to speak with someone about supportive measures and to obtain information about their options. Confidentiality over any information shared depends on whom a reporting individual speaks with. As previously noted, confidentiality may be offered by an individual who is not required by law to report known incidents of sexual assault or other crimes to Institution officials. Pastoral counselor(s) are HJI employees who may offer confidentiality.

Prior to an investigation, if the Complainant requests not to pursue a formal grievance process, the report will remain confidential. Declining to consent to an investigation shall be honored unless HJI determines in good faith that failure to investigate does not adequately mitigate a potential risk of harm to the Complainant or other members of the community. Honoring such a request may limit HJI's ability to meaningfully investigate and pursue conduct action against the Respondent.<sup>41</sup>

HJI will weigh a request for confidentiality based on several factors. If the Complainant discloses an incident to an Institution employee who is responsible for responding to or reporting domestic violence, dating violence, stalking, or sexual assault but wishes to maintain confidentiality or does not consent to the HJI's request to initiate an investigation, the Title IX Coordinator must weigh the request against the HJI's obligation to provide a safe, non-discriminatory environment for all members of its community.<sup>42</sup>

Other factors used to determine whether to honor such a request include, but are not limited to:

- Whether the Respondent has a history of violent behavior or is a repeat offender;
- Whether the incident represents escalation in unlawful conduct on behalf of the Respondent from previously noted behavior;
- The increased risk that the Respondent will commit additional acts of violence;
- Whether the Respondent used a weapon or force;
- Whether the Complainant is a minor; and

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<sup>41</sup> NY Education Law Article 129-B, Enough is Enough, §6446(4).

<sup>42</sup> NY Education Law Article 129-B, Enough is Enough, §6446(1)(d).

- Whether HJI possesses other means to obtain evidence such as security footage, and whether available information reveals a pattern of perpetration at a given location or by a particular group.<sup>43</sup>

## **L. Grievance Procedures for Formal Complaints of Sexual Harassment**

### **1. Investigation of Sexual Harassment**

HJI will conduct a prompt, thorough, and confidential investigation that ensures due process for all parties, whenever the Title IX Coordinator or management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All students and employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.<sup>44</sup>

All complaints or information about suspected sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner, and will be confidential to the extent possible.<sup>45</sup>

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, and, to the extent possible, should be completed within ninety (90) days. All persons involved, including Complainants, witnesses, and Respondents will be accorded due process to protect their rights to a fair and impartial investigation.<sup>46</sup>

Any individual who feels they have been subjected to sexual misconduct or harassment or discrimination of any type is encouraged to make a report to the Title IX Coordinator. If the Title IX Coordinator is the object of the complaint, the report should be made to the Vice President for Administration. Likewise, if the President is the object of the complaint, the report should be made to the Vice President for Administration. In such cases, another designate(s) will serve as the Decision-maker(s) and may be externally hired.

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<sup>43</sup> NY Education Law Article 129-B, Enough is Enough, §6446(4).

<sup>44</sup> Adopted with adaptations from New York State Sexual Harassment Model Policy, <https://www.ny.gov/combating-sexual-harassment-workplace/sexual-harassment-prevention-model-policy-and-training>.

<sup>45</sup> Ibid.

<sup>46</sup> Ibid.



Any student or employee may be required to cooperate as needed in an investigation of suspected sexual harassment. Students and employees who participate in any investigation will not be retaliated against.<sup>47</sup>

Under Title IX, the Institution must investigate the allegations in a formal complaint. If the conduct alleged in the formal complaint (1) would not constitute sexual harassment defined under Title IX even if proved, (2) did not occur in the Institution's education program or activity, or (3) did not occur against a person in the United States, then the Institution must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX; such a dismissal does not preclude action under another provision of the Institution's code of conduct.<sup>48</sup>

The Title IX Coordinator and/or a qualified professional may serve as the Investigator. Investigations will be done in accordance with the following steps:

- Upon receipt of complaint, the Investigator will conduct an immediate review of the allegations, and take any interim actions, as appropriate. If complaint is oral, encourage the individual to complete the "Complaint Form" in writing. If he or she refuses, prepare a Complaint Form based on the oral reporting.
- If documents, emails or phone records are relevant to the allegations, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses;
- Keep records of the written documentation and associated documents.
- Inform the individual who complained of their right to file a complaint or charge externally.<sup>49</sup>

Under Title IX, when investigating a formal complaint, the Institution must ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the Institution and not on the parties provided that the Institution cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the Institution obtains that party's voluntary, written consent to do so.<sup>50</sup>

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<sup>47</sup> Ibid.

<sup>48</sup> 34 CFR §106.45(b)(3)(i).

<sup>49</sup> Adopted with adaptations from New York State Sexual Harassment Model Policy, <https://www.ny.gov/combatting-sexual-harassment-workplace/sexual-harassment-prevention-model-policy-and-training>.

<sup>50</sup> 34 CFR §106.45(b)(5)(i).

The Institution must also:

- Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;<sup>51</sup>
- Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;<sup>52</sup>
- Provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the Advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of Advisor for either the Complainant or Respondent in any meeting or grievance proceeding;<sup>53</sup>
- Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate;<sup>54</sup> and
- Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the Institution does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, the Institution will send to each party and the party's Advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 days to submit a written response, which the Investigator will consider prior to completion of the investigative report. The Institution will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.<sup>55</sup>

## **2. Investigative Report**

The Investigator will create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to a hearing or other time of determination regarding responsibility, send to each party and the party's Advisor, if any, the

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<sup>51</sup> 34 CFR §106.45(b)(5)(ii).

<sup>52</sup> 34 CFR §106.45(b)(5)(iii).

<sup>53</sup> 34 CFR §106.45(b)(5)(iv).

<sup>54</sup> 34 CFR §106.45(b)(5)(v).

<sup>55</sup> 34 CFR §106.45(b)(5)(vi).

investigative report in an electronic format or a hard copy, for their review and written response.<sup>56</sup>

The written documentation of the investigation (such as a letter, memo or email) should contain the following:

- A list of all documents reviewed, along with a detailed summary of relevant documents;
- A list of names of those interviewed, along with a detailed summary of their statements;
- A timeline of events; and
- A summary of prior relevant incidents, reported or unreported.<sup>57</sup>

### **3. Live Hearing**

A live hearing process is required under Title IX. The Title IX Coordinator and/or Investigator(s) may oversee the order and decorum of the hearing, but may not be the Decision-maker(s). The Vice President for Administration and/or another designate may serve as the Decision-maker(s).

The Decision-maker(s) will review the evidence and written report from the investigation. During the live hearing, the Decision-maker(s) must allow each party's Advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's Advisor of choice and never by a party personally, notwithstanding the discretion of the Institution to otherwise restrict the extent to which Advisors may participate in the proceedings. If a party does not have an Advisor present at the live hearing, the Institution will provide without fee or charge to that party, an Advisor of the Institution's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party. If a party or witness does not submit to cross-examination at the live hearing, the Decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Decision-maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.<sup>58</sup>

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<sup>56</sup> 34 CFR §106.45(b)(5)(vii).

<sup>57</sup> Adopted with adaptations from New York State Sexual Harassment Model Policy, <https://www.ny.gov/combatting-sexual-harassment-workplace/sexual-harassment-prevention-model-policy-and-training>.

<sup>58</sup> 34 CFR §106.45(b)(6)(i).

Only relevant cross-examination and other questions may be asked of a party or witness. Before a Complainant, Respondent, or Witness answers a cross-examination or other question, the Decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.<sup>59</sup>

At the request of either party, HJI must provide for the live hearing to occur with the parties located in separate rooms with technology enabling the Decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions. Live hearings may be conducted with all parties physically present in the same geographic location or, at HJI's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other. HJI must create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.<sup>60</sup>

#### **4. Determination of Responsibility**

As noted, the Decision-maker(s) cannot be the same person(s) as the Title IX Coordinator or the Investigator(s). Using the testimonies and review of evidence at the hearing, the Decision-maker(s) deliberate in a closed session to determine if the Respondent violated this policy under a preponderance of the evidence. The Decision-maker(s) will then issue a written determination regarding responsibility.<sup>61</sup> The written determination must include:

- Identification of the allegations potentially constituting sexual harassment;
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of HJI's code of conduct to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions HJI imposes

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<sup>59</sup> 34 CFR §106.45(b)(6)(i).

<sup>60</sup> 34 CFR §106.45(b)(6)(i).

<sup>61</sup> 34 CFR §106.45(b)(7)(i).

on the respondent, and whether remedies designed to restore or preserve equal access to HJI's education program or activity will be provided by HJI to the complainant; and

- HJI's procedures and permissible bases for the complainant and respondent to appeal.<sup>62</sup>

HJI will provide the written determination to the parties simultaneously.<sup>63</sup> The determination regarding responsibility becomes final either on the date that HJI provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.<sup>64</sup> The Title IX Coordinator is responsible for effective implementation of any remedies.<sup>65</sup>

## 5. Appeals

The Respondent and Complainant may request an appeal from a determination regarding responsibility or from HJI's dismissal of a formal complaint or any allegations therein. The appeal must be in writing and sent to the Title IX Coordinator within seven (7) days of the issuance of the written determination regarding responsibility.

An appeal may be made on the following bases:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or the dismissal was made, that could affect the outcome of the matter; and
- The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.<sup>66</sup>

An independent appeal committee will consider the appeal. The committee will determine whether an appeal will undergo further investigation and steps.

As to all appeals, HJI will:

- Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;

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<sup>62</sup> 34 CFR §106.45(b)(7)(ii)(A)-(F).

<sup>63</sup> 34 CFR §106.45(b)(7)(iii).

<sup>64</sup> 34 CFR §106.45(b)(7)(iii).

<sup>65</sup> 34 CFR §106.45(b)(7)(iv).

<sup>66</sup> 34 CFR §106.45(b)(8)(i)(A)-(C).

- Ensure that the Decision-maker(s) for the appeal is not the same person as the Decision-maker(s) that reached the determination regarding responsibility or dismissal, the Investigator(s), or the Title IX Coordinator;
- Ensure that the Decision-maker(s) for the appeal complies with the standards set forth in this policy;
- Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- Issue a written decision describing the result of the appeal and the rationale for the result; and
- Provide the written decision simultaneously to both parties.<sup>67</sup>

To the extent possible, the appeals process should be completed within thirty (30) days of the filing of an appeal.

## **6. Dismissal of a Formal Complaint**

The Institution may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing: A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; the Respondent is no longer enrolled or employed by the Institution; or specific circumstances prevent the Institution from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.<sup>68</sup>

Upon a dismissal required or permitted pursuant to 34 CFR 106.44(b)(3)(ii)-(iii), the Title IX Coordinator will promptly send written notice of the dismissal and reason(s) therefor simultaneously to the Complainant and Respondent.<sup>69</sup>

## **7. Transcript Notations**

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 established in 20 USC 1092(f)(1)(F)(i)(I)-(VIII), HJI will 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, HJI will make a notation on the transcript of such students that they “withdrew with conduct charges pending.”

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<sup>67</sup> 34 CFR §106.45(b)(8)(iii)(A)-(F).

<sup>68</sup> 34 CFR §106.45(b)(3)(ii).

<sup>69</sup> 34 CFR §106.45(b)(3)(iii).

Students have the right to appeals seeking removal of a transcript notation for a suspension, provided that such notation shall not be removed prior to one year after conclusion of the suspension, while notations for expulsion shall not be removed. If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.<sup>70</sup>

## **8. Recordkeeping**

For a period of seven (7) years, HJI will maintain records of: (a) each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript, any disciplinary sanctions imposed on the Respondent, and any remedies provided to the Complainant designed to restore or preserve equal access to HJI's education program or activity; (b) any appeal and the result therefrom; (c) any informal resolution and the result therefrom; and (d) all materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an informal resolution process.<sup>71</sup>

HJI will also create, and maintain for a period of seven (7) years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, HJI will document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to HJI's education program or activity. If HJI does not provide a Complainant with supportive measures, then HJI will document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit HJI in the future from providing additional explanations or detailing additional measures taken.<sup>72</sup>

## **M. Clery Act Compliance**

HJI will make reports of certain crimes occurring in specific geographic locations that will be included in HJI's Annual Security Report pursuant to the Clery Act, 20 USC 1092(f), in an anonymized manner that identifies neither the specifics of the crime nor the identity of the reporting individual. HJI is obligated to issue timely warnings of crimes enumerated in the Clery Act occurring within relevant geography that represent a serious or continuing threat to students and employees, except in those circumstances where issuing such a warning may compromise current law enforcement efforts or when the warning itself could potentially identify the reporting individual. A reporting individual shall not be identified in a timely warning.<sup>73</sup>

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<sup>70</sup> NY Education Law Article 129-B, Enough is Enough, §6444(6).

<sup>71</sup> 34 CFR §106.45(b)(10)(i)(A)-(D).

<sup>72</sup> 34 CFR §106.45(b)(10)(i)(A)-(D).

<sup>73</sup> NY Education Law Article 129-B, Enough is Enough, §6446(1)(g).

## **N. FERPA**

The Family Educational Rights and Privacy Act, 20 USC 1232(g), allows institutions to share information with parents when: (i) there is a health or safety emergency, or (ii) when the student is a dependent on either parent's prior year federal income tax return. Generally, HJI will not share information about a report of domestic violence, dating violence, stalking, or sexual assault with parents without the permission of the reporting individual.<sup>74</sup>

## **O. Legal Protections and External Remedies<sup>75</sup>**

Sexual harassment is not only prohibited by HJI but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at HJI, students and employees may also choose to pursue legal remedies with the following governmental entities at any time.

### New York State Division of Human Rights (DHR)

The New York State Human Rights Law (HRL), N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State and protects employees and covered individuals, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the New York State Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints of sexual harassment filed with DHR may be submitted any time within three years of the harassment. If an individual does not file a complaint with DHR, they can bring a lawsuit directly in state court under the Human Rights Law, within three years of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to HJI does not extend your time to file with DHR or in court. The three years are counted from the date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases receive a public hearing before an administrative law judge. If sexual harassment is found at the hearing,

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<sup>74</sup> NY Education Law Article 129-B, Enough is Enough, §6446(1)(g).

<sup>75</sup> Adopted from New York State Sexual Harassment Model Policy, <https://www.ny.gov/combating-sexual-harassment-workplace/sexual-harassment-prevention-model-policy-and-training>.



DHR has the power to award relief. Relief varies but it may include requiring your employer to take action to stop the harassment, or repair the damage caused by the harassment, including paying of monetary damages, punitive damages, attorney's fees, and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: [www.dhr.ny.gov](http://www.dhr.ny.gov).

Go to [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint with DHR. The website has a digital complaint process that can be completed on your computer or mobile device from start to finish. The website has a complaint form that can be downloaded, filled out, and mailed to DHR as well as a form that can be submitted online. The website also contains contact information for DHR's regional offices across New York State.

Call the DHR sexual harassment hotline at 1(800) HARASS3 for more information about filing a sexual harassment complaint. This hotline can also provide you with a referral to a volunteer attorney experienced in sexual harassment matters who can provide you with limited free assistance and counsel over the phone.

#### United States Equal Employment Opportunity Commission (EEOC)

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act, 42 U.S.C. § 2000e et seq. An individual can file a complaint with the EEOC anytime within 300 days from the most recent incident of harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint and determine whether there is reasonable cause to believe that discrimination has occurred. If the EEOC determines that the law may have been violated, the EEOC will try to reach a voluntary settlement with the employer. If the EEOC cannot reach a settlement, the EEOC (or the Department of Justice in certain cases) will decide whether to file a lawsuit. The EEOC will issue a Notice of Right to Sue permitting workers to file a lawsuit in federal court if the EEOC closes the charge, is unable to determine if federal employment discrimination laws may have been violated, or believes that unlawful discrimination occurred by does not file a lawsuit.

Individuals may obtain relief in mediation, settlement or conciliation. In addition, federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a “Charge of Discrimination.” The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov).

If an individual filed an administrative complaint with the New York State Division of Human Rights, DHR will automatically file the complaint with the EEOC to preserve the right to proceed in federal court.

#### U.S. Department of Education Office for Civil Rights

Educational institutions like HJI have a responsibility to protect every student's right to learn in a safe environment free from unlawful discrimination and to prevent unjust deprivations of that right. The Office for Civil Rights enforces several Federal civil rights laws, including Title IX, that prohibit discrimination in programs or activities that receive federal financial assistance from the Department of Education. It is the mission of the Office for Civil Rights is to ensure equal access to education and to promote educational excellence throughout the nation through vigorous enforcement of civil rights.

You may file a complaint with OCR using OCR’s electronic complaint form at the following website: <http://www.ed.gov/about/offices/list/ocr/complaintintro.html>.

#### Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. For example, employees who work in New York City may file complaints of sexual harassment with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 40 Rector Street, 10th Floor, New York, New York; call 311 or (212) 306-7450; or visit [www.nyc.gov/html/cchr/html/home/home.shtml](http://www.nyc.gov/html/cchr/html/home/home.shtml)

#### Contact the Local Police Department

If the harassment involves unwanted physical touching, coerced physical confinement, or coerced sex acts, the conduct may constitute a crime. Those wishing to pursue criminal charges are encouraged to contact their local police department.

### **RELATED INFORMATION**

- HJI Complaint Form for Sexual Misconduct

## **Appendix A: Students' Bill of Rights**

(Adopted from New York Education Law Article 129-B, Enough is Enough, §6443)

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 pressure by 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 protected from retaliation by the Institution, any student, the accused and/or the Respondent, 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; and
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the Institution.

## **Appendix B: Resources for Cases of Sexual Misconduct**

### **New York City**

Lynn Walsh, Title IX Coordinator	(212) 563-6647 x120
Frank LaGrotteria, Vice President for Administration	(212) 563-6647 x115
Security Desk	(212) 997-0125 x101

### **Off Campus**

Police (Emergency)	911
Police (Non-Emergency)	311
Police, Midtown South Precinct	(212) 239-9811
Sex Crimes Report Line	(212) 267-7273
Mount Sinai West Hospital	(212) 523-4000
Safe Horizon Rape and Sexual Assault Hotline*	(212) 227-3000
Crime Victims Treatment Center*	(212) 523-4728
NY Campus Sexual Assault Hotline*	1-844-845-7269
Stalking Resource Center*	1-202-467-8700
NYS Domestic and Sexual Violence Hotline*	1-800-942-6906
Safe Horizon Domestic Violence Hotline*	1-800-621-4673
National Domestic Violence Hotline*	1-800-799-7233

\*Resource offers confidentiality and is free of charge.