BINGHAMTON UNIVERSITY
STATE UNIVERSITY OF NEW YORK

2024 ANNUAL SECURITY AND FIRE SAFETY REPORT

(2023 CALENDAR YEAR STATISTICS)

ANNUAL SECURITY AND FIRE SAFETY REPORT PREPARATION

As required by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1990, statistics must be compiled and disclosed by the University on certain crimes and student conduct referrals when reported by a person to the New York State University Police at Binghamton (NYSUP), campus o cial with signi cant responsibility for student and campus activities, and other individuals identi ed as Campus Security Authorities (CSAs).

Clery reportable geography, the incident will undergo a review for

EMERGENCY NOTIFICATION SYSTEM

In the event of a situation posing an immediate threat to members of the campus community, the campus has various systems in place for communicating information quickly. Some or all of these methods of communication may be activated in the event of an emergency.

RESPONSIBILITIES

OFFICE OF EMERGENCY MANAGEMENT (OEM)

Shall provide oversight, management and coordination of the University's emergency noti cation system, known as B-ALERT. The O ce of Emergency Management shall partner with NYSUP to ensure compliance with applicable federal, state and local laws pertaining to emergency noti cation and warning requirements. The OEM may initiate a B-ALERT for any immediate or imminent threat to the campus community.

NEW YORK STATE UNIVERSITY POLICE (NYSUP)

The NYS University Police shall participate in the emergency noti cation and warning system. NYSUP may initiate any B-ALERT for any immediate or imminent threat to the campus community. NYSUP shall partner with OEM to ensure compliance with applicable federal, state and local laws pertaining to emergency noti cation and warning requirements. NYSUP shall be responsible for all Clery Act "Timely Warnings."

COMMUNICATIONS AND MARKETING

Shall participate in the emergency noti cation and warning system. Communications and Marketing may disseminate a B-ALERT emergency message via delivery methods under its operational control.

EMERGENCY NOTIFICATION (ELECTRONIC AND CELLULAR)

Binghamton University is committed to ensuring the campus community receives timely, accurate and useful information in the event of a signi cant emergency or dangerous situation on campus or in the local area that poses an immediate threat to the health and safety of campus community members. The University will notify the campus community upon con rmation of an emergency or dangerous situation. The University uses the emergency noti ca tion system RAVE to provide alerts via B-ALERT. B-ALERT is an emergency noti cation service available to students, faculty and sta . B-ALERT is a closed, hybrid opt-in/opt-out system.

B-ALERT can be used to send emergency messages within minutes of the occurrence of an incident. Alerts sent by B-ALERT are simulcast to the University community via multiple means.

Binghamton University utilizes multiple methods of communi- cating emergency information. Available techniques for communi cating critical information include the following methods:

- Text/electronic messaging (B-ALERT)
- Outdoor siren/public address system
- Alertus Mobile App
- Alertus Desktop Alerts
- Electronic LED message boards
- Campus voicemail
- University webpage
- University email listservs (i.e., B-Line and Dateline)
- Campus and local television and radio
- Mobile public address systems (vehicle mounted)

The use of these systems will be determined on an individual basis depending on the emergency situation that arises. Use of the systems shall be limited to the acceptable use policy of the Univer sity (Emergency Noti cation Plan, Annex 4).

CONFIRMING THE EXISTENCE OF A SIGNIFICANT EMERGENCY OR DANGEROUS SITUATION AND INITIATING THE EMERGENCY NOTIFICATION SYSTEM

(from Annex 4 - Emergency Noti cation Plan - Emergency Management)

BINGHAMTON UNIVERSITY EMERGENCY ALERT SYSTEM POLICIES AND PROCEDURES

1. PURPOSE

The purpose of this policy is to de ne use of the Binghamton University Emergency Alert System. This system has multiple alert components intended to improve emergency communica tions between the University's administration and Binghamton University students, sta , faculty and visitors. This document will establish the protocols to be taken in case of an emergency in order to promote the safety of everyone on campus. The Emergency Alert System includes:

- Text/electronic messaging
- Outdoor siren(s)
- Alertus Mobile App
- Alertus Desktop Alerts
- Electronic LED message boards
- Campus voicemail
- University webpage
- Campus and local television and radio
- Mobile public address systems (vehicle mounted)

2. ACCEPTABLE USE OF THE EMERGENCY ALERT SYSTEM

The Binghamton University Emergency Alert System shall only be initiated within the acceptable use criteria listed below. Warnings and instructions related to emergency conditions:

- Bomb Threat – There is intelligence to indicate the threat is credible (e.g., potential device has been located).
- Civil Disturbance – A demonstration by a large group that is disrupting normal activities and/or showing signs of aggressive behavior.
- Fire – Any re that is potentially placing lives in danger.
- Hazardous Material Release – A dangerous material (i.e.,

administrators will be immediately noti ed and directed to contact the NYSUP dispatch center to provide immediate consultation.

- Situational awareness may be gathered from a variety of sources in order to gather information to help make the decision to activate the system. Likely sources of information include, but are not limited to, NYS University Police, the O ce of Emergency Management (OEM), senior administrators, Facilities Management, Environmental Health & Safety, Broome County O ce of Emergency Services (OES), etc.

- As practical, without jeopardizing life safety, the following individuals or entities may be consulted prior to emergency message dissemination.

  a. President's O ce

  b. Vice President for Operations

  c. Member of the Senior O cer's Group

  d. Executive Director, O ce of Emergency Management

  e. Chief of Police

  f. Police Supervisor on duty

- Outdoor Siren – The outdoor siren should only be used when the OEM and/or NYSUP administration want individuals to seek shelter inside a building (shelter-in-place). The siren directs people to take immediate shelter inside the nearest building eTolice

- B-ALERT Text messaging
- Alertus Smartphone Noti cation Application
- Alertus Computer Desktop Noti cation

All individuals with a binghamton.edu email address are automati cally registered into the B-ALERT system. Individuals are not allowed to opt-out of the email portion of the system.

To receive text alerts, users must provide a valid cellular telephone number capable of receiving text messages. Binghamton University uses an automated process that “forces” individuals to either provide a cellular number or decline to participate in the service. This automated system is linked with the BU BRAIN academic portal and the process occurs at the beginning of every academic semester.

6. EDUCATION

In order to educate the existing students, faculty and sta , Commu nications and Marketing shall use appropriate methods to commu nicate with the campus community. Possible methods include the University website, Dateline, B-Line, Pipe Dream,

SAFE Ride Service, Campus.....607-777-7233
Walking Escort Service, Campus.....607-777-2393
Human Rights, New York State Division.....607-721-8467

Legal Assistance
Broome Lawyer Reference Service.....607-723-6331
District Attorney 607-778-2423
Mediation: ACCORD.....607-724-5153

Sexual Assault Resources
Crime Victims' Assistance Center Crisis Line
(24-hour crisis line) 607-722-4256
O ce number (non-emergency) 607-723-3200
Interpersonal Violence Advocate in the
Dean of Students CARE Team.....607-777-2804
University Counseling Center.....607-777-2772
Decker Student Health Services Center.....607-777-2221

Sexual Harassment Resources
Crime Victims' Assistance Center.....607-722-4256
NYSUP.....607-777-2393
Division of Diversity, Equity and Inclusion 607-777-4775
Interpersonal Violence Advocate in the
Dean of Students CARE Team.....607-777-2804

University Ombudsman.....607-777-2388
University Counseling Center.....607-777-2772
University Title IX Coordinator (Andrew Baker,
Couper Admin. Bldg. 217, abaker@binghamton.edu) 607-777-2486
Violence, Abuse and Rape Crisis Center (VARCC).....607-777-3010

- Cell phone or o -campus telephone: 607-777-2222
- Blue light telephones located on campus: Dialed automatically by picking up the receiver

Employees should then notify their supervisor.

Employees are expected and strongly encouraged to report any threat or act of violence that they have witnessed, received or been informed of to NYSUP and their supervisors. Every threat should be reported to best maintain safety for the entire campus community. Any individual who makes a threat, exhibits threatening behavior or engages in violent acts on University property may be subject to removal from the premises as quickly as safety permits.

University o ces to contact regarding workplace violence:

- New York State University Police 607-777-2222
- Counseling Center 607-777-2772
- Dean of Students O ce 607-777-2804
- Employee Assistance Program 607-777-6655
- Human Resources 607-777-2187
- O ce of Student Conduct 607-777-6210
- University Ombudsman 607-777-2388

MAINTENANCE OF CAMPUS FACILITIES

NYSUP regularly tests the emergency phones that are connected directly to NYSUP and submits work orders for eNYSUP regularly tests the eme

MISSING STUDENTS

The Higher Education Opportunity Act of 2008 (e ective August 14, 2008) requires any institution participating in a Title IV federal student nancial aid program that maintains on-campus housing facilities to establish a missing student noti cation policy and related procedures. In 2010, U.S. Department of Education (ED) regulations on noti cation requirements took e ect with the reauthorization and expansion of the Higher Education Opportu nity Act (HEOA).

These regulations apply to all institutions participating in the Title IV federal student nancial aid program. They are triggered when a student residing in on-campus housing at a U.S. or foreign campus of the institution is missing for at least 24 hours. The regulations do not apply to students who live on campus in the U.S. but are temporarily residing o campus in study-abroad programs.

The NYSUP at Binghamton adheres to the NYSLEAP de nition of a missing person, found in Accreditation Standard 44.3, which states "A person may be declared missing when his or her whereabouts are unknown and unexplainable for a period of time that is regarded by knowledgeable persons as highly unusual or suspicious in consider ation of the subject's behavior, patterns, plans, or routines." There is no required waiting period for reporting a missing person. Any missing student report must be referred immediately to the NYSUP at Binghamton.

The following policy and related procedures are Binghamton University's o cial Missing Student Policy. When it is determined that a student is apparently missing from the University, University sta , in collaboration with campus and local law enforcement, will be guided by this Missing Student Policy and standing operating procedures to locate the student.

NYSUP at Binghamton University must be noti ed if a student is reported missing. They may be contacted at 607-777-2222 from a cell or o -campus phone, or 911 from a campus phone. Residential Life sta may also be contacted in the student's residence hall or at the Residential Life central o ce by calling 607-777-2321. Residen tial Life sta will forward all reports to the NYSUP.

Residential students are provided the opportunity annually to identify a person whom the University shall notify within 24 hours of the determination that the student is missing. This person's contact information will be kept con dential and is accessible only to authorized campus o cials and may not be disclosed except to law enforcement personnel in furtherance of a missing student investigation.

If NYSUP determines that a student living in on-campus housing is missing, an investigation will begin and within the next 24 hours they will:

- Notify the person who has been identi ed by the student to be contacted if they become a missing student (if one has been identi ed)
- Notify a parent or guardian if the student is under 18 years old and not emancipated
- Notify appropriate o -campus law enforcement agencies, unless the local law enforcement agency was the entity that made the determination that the student is missing.

Regardless of whether the student has identi ed a contact person, is above the age of 18, or is an emancipated minor, the local law enforcement agency that has jurisdiction will be noti ed.

PERSONAL SAFETY ADVISORY COMMITTEE

Comprising faculty, sta and students, this group reviews current policies, procedures and programs and makes recommendations for their modi cation. It also discusses issues of mutual concern related to safety and security on campus.

OFFICE OF ENVIRONMENTAL HEALTH AND SAFETY (EH&S)

The EH&S O ce inspects campus facilities and audits campus activities to assure compliance with applicable health and safety codes mandated by federal, state and local governments. Contact: Decker Student Health Services Center, Ground Floor Room 101, 607-777-2211.

PROCEDURE STATEMENT FOR SEXUAL ASSAULT, DATING VIOLENCE, DOMESTIC VIOLENCE AND STALKING

Binghamton University will not tolerate acts of sexual assault, dating violence, domestic violence or stalking. The University will investigate allegations of sexual assault and take appropriate student conduct, criminal and/or other legal action. Students who are victims have legal and health needs in addition to psychological needs related to the trauma from the assault. The primary purpose of crisis counseling with these victims is to help them be and feel safe and re-establish control in their lives. In regaining control, the victim will need to make decisions about evidence collection, ling reports with appropriate law enforcement and healthcare agencies. As con dential reporting sources, the Decker Student Health Services Center and the University Counseling Center strongly adhere to con dentiality policies and do not report crimes shared by victims without authorized permission. However, they strongly endorse and support victims through reporting crimes to appropriate law enforcement agencies and/or O ce of Student Conduct o cials. In addition, resources, both on and o campus, are provided to all victims.

In particular, victims are encouraged to seek medical attention and treatment. Victims are informed about the sexual assault forensic exam and ways to access resources. Options of on- and o -campus reporting are also explored with the victims.

As soon as possible, the victim should report the incident to the NYSUP, the local police (if o campus) or University faculty or sta members. The victim is encouraged to preserve any physical evidence of the assault. This may include a voluntary medical examination, not showering or not disposing of any clothing or other items that are present after/during the assault; not changing clothing (including socks and shoes), bathing, showering or using the bathroom, brushing their teeth, washing their face or hands, combing their hair or drinking liquids. Victims are encouraged to contact any law enforcement agent by calling 911 after a sexual assault for crime investigation, referral or transport for medical treatment and referral to crisis counseling and legal advocacy. NYSUP, with the victim's consent, will immediately conduct a criminal investigation of the reported crime. They will also contact a crisis counselor immediately if the victim wishes.

a sexually transmitted infection and women may be at risk for pregnancy. Trained sta from the Decker Student Health Services Center at 607-777-2221 or local hospital emergency room personnel can speak with you about all of the medical options available and provide information about a sexual assault forensic examination. In emergencies, call Harpur's Ferry Student Ambulance Service at 911 or 607-777-3333.

- Seek emotional support from the University Counseling Center at 607-777-2772, Decker Student Health Services Center at 607-777- 2221, the Dean of Students CARE Team advocate at 607-777-2804 or the local Crime Victims Assistance Center at

measures provided to the victim, to the extent that maintaining such con dentiality would not impair the ability of the institu - tion to provide the accommodations or protective measures.

EMPLOYEES

There are several o ces where employees can report that they have been a victim of dating violence, domestic violence, sexual assault or stalking:

- NYSUP, AD-G24, 607-777-2393
- Division of Diversity, Equity and Inclusion, LS-G548, 607-777-4775
- Employee Assistance Program, AB-110A, 607-777-6655
- O ce of Human Resources, AD-244, 607-777-2187
- University Title IX Coordinator, Andrew Baker, AD-217, 607-777-2486
- Local police agency where the incident occurred, if o campus

For employees who report that they have been a victim of dating violence, domestic violence, sexual assault or stalking, the Univer- sity will: provide the victim with a list of local resources for crime victims; work with the victim regarding a leave from work, time and attendance, payroll and bene ts; work with NYSUP to coordinate actions on campus to enhance the safety of the victim.

Actions for discipline taken by the O ce of Human Resources are governed by bargaining unit contracts. Each bargaining unit has a contract that outlines the discipline process for employees who are members of their unit. Penalties can include nes, counseling, suspension and termination.

In instances where it is alleged that a state employee has committed acts of dating violence, domestic violence, sexual assault or stalking, the employee may immediately be removed from campus and relocated to an alternate work location o of Binghamton University property. The O ce of Human Resources will conduct an investigation into the allegations. The discipline process will be initiated according to the steps outlined in the contract of the bargaining unit to which the accused employee belongs. Once the investigation is complete, Human Resources will issue a disciplinary penalty if deemed appropriate. Human Resources will inform the victim of the results of the investigation to the extent allowable for con dential personnel matters.

In instances where an employee has been arrested or charged by local, state or federal law enforcement for any crime, the O ce of Human Resources conducts its own investigation.

Retaliation against members of the University community who make good faith reports regarding potential University-related violations of laws, regulations or University policies is prohibited.

SEXUAL ASSAULT, DOMESTIC VIOLENCE, DATING VIOLENCE AND STALKING PREVENTION PROGRAMS

Binghamton University prohibits the crimes of dating violence, domestic violence, sexual assault and stalking as those terms are de ned for purposes of the Clery Act. These acts will not be tolerated. Programs to prevent dating violence, domestic violence, sexual assault, and stalking are provided to incoming students during the mandated interpersonal violence educational peer-led programming held during Move-in Weekend. In addition to in-person training, new students (undergraduate, graduate, and transfer students) are required to complete an online educational program on these topics.

Topic Areas Covered in New Student Move In Programming:

- A rmative Consent
- Health and Unhealthy Relationships
- Victim blaming and Rape culture
- Bystander Intervention
  a. Risk reduction with special attention to identifying and addressing predatory behaviors
- How to help and friend and campus resources

Programming is also o ered to the general student population and campus community throughout the academic year. All program- ming is informed by best practices, inclusive, culturally relevant and responsive to the Binghamton campus community. Program- ming e orts are assessed through pre- and post-tests to aid the development of the most e ective and up-to-date interventions.

20:1 Prevention Program Internship — Dean of Students CARE Team trains peer educators to provide sexual assault, dating/ domestic violence, stalking prevention education, bystander invention training, healthy relationship, risk reduction with special attention to identifying and addressing predatory behaviors to various campus groups and constituents.

Interpersonal Violence, Stalking and Sexual Assault Prevention Programs:

Awareness Prevention Programs:

20:1 Prevention Programs provides events throughout the year that are open to the student body at Binghamton. These events include:

- 20:1 Talks – Peer educators lead group discussions to engage peers in healthy conversations about current interpersonal violence topics with the goal of changing campus culture.
- In Their Shoes: Teens and Dating Violence — In Their Shoes is an interactive program in which participants engage in interpersonal violence scenarios by becoming one of six characters who experience sexting, pregnancy, homophobia and stalking. The program increases understanding of the impact of interpersonal violence and creates empathy.
- #Love Better Tabling event – The One Love Foundation #LoveBetter Campaign accentuates the contrast behaviors associated with unhealthy relationships. The program increases awareness about unhealthy patterns of behavior in relationships.
- Clothes Line Project: An awareness raising campaign where students are able to make T-shirts noting di erent survivor experiences with violence.
- Behind the Post: An educational program based on the One Love Foundation regarding healthy and unhealthy relation- ships, and social media.
- Home For the Holidays Tree: Tree decorating led by 20:1 to address dating violence and sexual assault as part of a community wide holiday event at the Roberson Museum.
- Dragon Panel Project: Brings awareness to interpersonal, political and hate violence against women of color. Each

panel tells the story of a woman of color who has been a victim while putting a face to their struggle.

- Roll Red Roll: A video based discussion program that untangles the societal norms that allow a "boys will be boys culture," toxic masculinity and allowing rape culture and sexual violence to continue. Utilizing this documentary about the Steubenville gang rape, this program explores victim blaming, bystander intervention, institutional betrayal and rape culture.
- Social Media: Through the use of social media, students receive messaging about sexual assault prevention, dating violence, healthy relationships, stalking and bystander intervention.
- Sexapalooza: At this sex positive event at Binghamton University, consent programming is provided, speci cally addressing a rmative consent during BDSM activity.
- Change Begins With Us: This activity based educational program reviewed community norms related to "hook up culture" and rape culture. In addition to the de nition of consent.Partipates learned about the spectrum of di erent forms of sexual violence and how healthy community nors help address concerning behavior and support survivors.
- This is For US: As part of Sexual Assault Awarenss month 20:1 sponsored a night of healing, with a bon re and smores for victim/survivors to symbolically burn memories or thoughts about their trauma that they wanted to get rid of. This was co-sponsored by CVAC, DOVE and VARCC.

A complete list of programs and social media campaigns may be obtained by contacting the Dean of Students CARE Team, within the Division of Student A airs at https://www.binghamton.edu/services/care-team/contact.html .

Primary Prevention Programs:

- Consent Programs : Students learn about a rmative art of e s,w heagy Cned nsent du. is actgram revalshe each unhealthy relationships. This program explores di erent aspects of dating violence including verbal, emotional, physical, sexual abuse and stalking. The Program helps to identify red ags in relationships and how to intervene.
- One Love: Peers facilitate lm-based workshops which spotlight the early warning signs of unhealthy relationships. The Escalation Program is a bystander program using a depiction of dating violence. Behind the Post, examines unhealthy relationship behaviors and the role social media can play.

INCOMING STUDENTS AND NEW EMPLOYEES

New Student Programming — During Move-in Weekend, all new rst year and transfer students registered for any in-person classes are required to attend in-person interpersonal violence training that includes small group discussion, and interactive activities. Prior to coming to campus, all students (including graduate and online students) are required to complete an online interpersonal violence prevention training. The training consists of educational modules on sexual assault prevention, bystander intervention and creating a respectful college culture. In addition to the federal and state mandates, institutional policies and campus/community resources are provided. Particular attention is given to dating violence, domestic violence, sexual assault, and stalking.

New Employee Online Training — All new employees are required to complete Binghamton University's online training. The modules within the training include: workplace discrimination and harassment; preventing sexual misconduct, preventing discrimina tion and harassment and others.

For additional information and assistance regarding sexual assault, domestic violence, dating violence and stalking, students may contact Decker Student Health Services Center, University Counseling Center, the Dean of Students CARE Team, Residential Life, NYSUP or local police jurisdictions, O ce of Student Conduct, Title IX Coordinator or the Crime Victims Assistance Center.

BYSTANDER INTERVENTION

Individuals are encouraged to use safe and positive interventions when they see or hear about acts of sexual assault, dating/domestic violence, and stalking. Many di erent kinds of interventions can help prevent harm from coming to others and provide education to individuals where necessary. The ve Ds is an e ective way to think about intervening:

- Direct intervention – directly approaching either individual in the situation.
- Distraction – nding a way to distract the individual(s) involved in order to dissolve the situation.
- Delegation – involving others, such as an RA, professor, bouncer or law enforcement, to resolve the situation.
- Delay-This is intervening with either party after the actual event when one can not intervene when the situation is occurring
- Document -Document with video or other means can help in the intervention of an event of interpersonal violence

No single approach works for every situation. For example, one

might approach someone who they think was harmed di erently than someone they believe harmed another. Individuals are encouraged to intervene in a manner that ensures their own personal safety is not placed at risk, while contributing to an environment free from discriminating and harassing behaviors.

RISK REDUCTION

To empower our campus community in the creation of a safe campus community, Binghamton University encourages members of the University community to reduce the risk of harm by:

1. Always following a rmative consent guidelines.
2. Checking in and communicating when in an intimate situation.
3. Looking out for friends.
4. Being an active bystander.
5. Recognizing and challenging predatory behavior in a safe way.

program is built on a foundation of evidence-based prevention and harm-reduction approaches that ask students to explore the how and why behind their behaviors, and give them the tools necessary to support their well-being.

The ATOD program at Binghamton University uses a multi-pronged approach to address drug and alcohol misuse by the campus community. Among the services provided by the ATOD o ce are:

- Events and Programs: The ATOD sta take the lead on and support campus-wide programming aimed at empowering students to make healthy decisions about their substance use behaviors and reduce harm.
  - eCHECKUP TO GO: An evidence based online prevention tool used for indicated students who are referred to the ATOD O ce by University professionals or who self-refer. Students can take the alcohol, cannabis, or nicotine assess ment. Individuals who complete the assessment are provided accurate, detailed and personalized feedback on their use, including risk factors, potential negative consequences, harm reduction strategies, etc.
  - Brief Alcohol Screening and Intervention for College Students (BASICS):

tobacco, and other drugs.

- Peer-to-Peer Engagement: Studies show that peers have an important in uence on emerging adult substance use behaviors. In addition to training students to conduct peer-led interventions, the ATOD program is designed to facilitate meaningful dialogue among peers and to dispel myths about peer substance-use behaviors.
- Recovery Resources: The Campus Recovery Support Group is a joint initiative between Binghamton University students in recovery, the University Counseling Center and the Alcohol, Tobacco & Other Drugs O ce to increase the campus community's recovery capital. The mission of the CRSG is to connect students who are living a substance-free lifestyle, who are sober curious, and/or who are supporting a family member in recovery with like-minded peers.
- Research: The ATOD staff is also engaged in research focused on the development of outreach strategies that support behavioral health, including preventing alcohol and other drug misuse, and promoting mental and physical well-being.
- In 2018, Governor Andrew Cuomo signed into law New York State created rules and regulations (NYS PHL § 3309 and 10 NYCRR 80.138) to implement and regulate Opioid Overdose Prevention Programs (OOPP) to train non-medical persons to recognize and manage opioid overdose and to increase public naloxone access. In spring 2019, Binghamton Univer sity became registered as an Opioid Overdose Prevention Program which provides on

be ineligible for employment and/or participation in certain campus programs.

d. Loss of Privileges —Loss of privileges is the loss of speci ed privileges such as use of a particular facility, visitation to a residence hall, housing priority, contact with an individual or other privileges for a designated period of time.

   Housing relocation or removal from University housing can be applied as a sanction. Students who have a serious violation of the community standards set in the Code of Student Conduct or the housing license, or because of a series of breaches of the community standards in the residence halls, will be asked to relocate or leave all University housing. Removal from housing typically includes the loss of visita tion privileges to speci c residential areas and penalty of forfeiting room and board charges for the semester in which the disciplinary action occurs.

e. Educational Projects and Community Service —These sanctions involve the completion of projects, assignments, essays, service to the University, facilitation of or participa tion in programs or other related assignments.

f. Relocation — Relocation is the reassignment of a student from one living space to another.

g. Restitution — Restitution may include payment to an individual or to the University to cover the cost of damage, destruction, defacement, theft or unauthorized use of property. It may also include payment for medical bills not covered by insurance.

h. Final Probation — Final probation is imposed only in very serious cases or cases where students are currently under a signi cant sanction. Final probation may include removal from all University housing and loss of visitation privileges to buildings or areas of campus and is imposed for a speci ed period of time. Students found responsible for any further violation of the Code of Student Conduct while on nal probation may be suspended from the University.

i. Suspension — Suspension is the separation of the student from the University for a de nite period of time, after which the student is eligible to return. Conditions for readmission may be speci ed. Students who have been suspended are unable to register for and attend classes or be present on University property without speci c, written permission of the dean of students.

ADVISORS

Any party may be accompanied by an advisor at any point in the process. Advisors may assist and advise their advisee throughout the process including any related hearings or meetings. Advisors are not permitted to speak or to participate directly in any part of the conduct process unless permitted to do so by the presiding o cer.

Students' Bill of Rights, which appears at https://www.binghamton.edu/services/title-ix/help/bill-of-rights.html is incorporated herein by reference.

EQUAL OPPORTUNITY/EQUAL RIGHTS

Throughout conduct proceedings, the respondent and claimant will have:

- The same opportunity to be accompanied by an advisor of their choice who may assist and advise the parties throughout the conduct process and any related hearings or meetings. Participation of the advisor in any proceeding is governed by federal law and the Code of Student Conduct.
- The right to a prompt response to any complaint. The right to have their complaint investigated and adjudicated in an impartial, timely and thorough manner by individuals who receive annual training in conducting investigations of sexual violence; the e ects of trauma; impartiality; the rights of the respondent, including the right to a presumption that the respondent is "not responsible " until a nding of responsibility is made; 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 (including fairness, impartiality and a meaningful opportunity to be heard) and is not conducted by individuals with a con ict of interest.
- The right to receive advance written or electronic notice of the date, time and location of any meeting or hearing they are required to or are eligible to attend. Respondents will also be told the factual allegations concerning the violation, a reference to the speci c code of conduct provisions alleged to have been violated and possible sanctions.
- 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 speci cally requests and justi es a longer delay.
- The right to o er evidence during an investigation and to review available relevant evidence in the case le or otherwise held by Binghamton University.
- The right to present evidence and testimony at a hearing when appropriate.
- The right to a range of options for providing testimony via alter native arrangements, including telephone/videoconferencing or testifying with a room partition.
- The right to exclude prior sexual history with persons other than the other party in the conduct process or their own mental health diagnosis or treatment from admittance in the college disciplinary stage that determines responsibility. Past ndings of domestic violence, dating violence, stalking or sexual assault may be admissible in the disciplinary stage that determines any sanctions.
- 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 noti cation of the outcome of a conduct proceeding, including the decision, any sanction(s) and the rationale for the decision and any sanctions.
- The right to written or electronic noti cation about the sanction(s) that may be imposed on the accused based upon the outcome of the conduct proceeding. For students found respon sible for sexual assault, the available sanctions are suspension

after receiving noti cation of the t >come of the hearing.

For cases involving sex discrimination (sex-based harassment, The appeal must specify the reason(s) for the appeal. The student

Appeal the sanction imposed; and

Failure to appeal within the allotted time will render the original

Appeals of all conduct cases are reviewed by either the vice

one sta person.

Appeals will be decided upon the record of the original

The person(s) reviewing an appeal may:

A rm the nding and reduce, but not eliminate, the sanction,

responsibility.

Binghamton University cannot access, consider, or disclose medical records without a waiver from the party (or parent, if applicable) to whom the records belong or of whom the records include information. Binghamton University will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence, (i.e. evidence that tends to prove and disprove the allegations) as described below.

Inspection and Review of Evidence

Prior to the completion of the investigation, the parties will have an equal opportunity to inspect and review the evidence obtained through the investigation. The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation.

The parties will have ten (10) calendar days to inspect and review the evidence and submit a written response by email to the investigator. The investigator will consider the parties' written responses before completing the Investigative Report.

The institution will provide copies of the parties' responses to the investigator to all parties and their advisors, if any.

The University will provide the parties up to ten (10) calendar days to provide a response, after which the investigator will not be required to accept further submission. The investigator has up to ten (10) calendar days to generate a report or, alternatively, may provide the parties with written notice extending the investigation and explaining the reason for the extension.

Any evidence subject to inspection and review will be available at any hearing, including for purposes of cross-examination.

Investigative Report

An investigator will create an Investigative Report that fairly summarizes relevant evidence, and will provide that Report to the parties at least ten (10) calendar days prior to the hearing through an electronic format, or other format if necessary, for each party's review and written response.

Hearing

General Rules of Hearings

Binghamton University will not issue a disciplinary sanction arising from an allegation of covered sexual harassment without holding a live hearing unless otherwise resolved through an informal resolution process.

The live hearing may be conducted with all parties physically present in the same geographic location, or, at Binghamton University's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually through the University's web conferencing technology. This technology will enable participants simultaneously to see and hear each other.

Hearing Procedures

For all live hearings conducted under the Title IX Grievance Process, the procedure will be as follows:

- The Board Chair will open and establish rules and expectations for the hearing;
- The Parties will each be given the opportunity to provide opening statements;
- The Board will ask questions of the Parties and Witnesses;
- Parties will be given the opportunity for live cross-examination after the Board conducts its initial round of questioning; During the Parties' cross-examination, the Board Chair will have the authority to pause cross-examination at any time for the purposes of asking the Board's own follow up questions; and any time necessary in order to enforce the established rules of decorum;
- Should a Party or the Party's Advisor choose not to cross-examine a Party or Witness, the Party shall a rmatively waive cross-examination through a written or oral statement to the Board Chair. A Party's waiver of cross-examination does not eliminate the ability of the Board to use statements made b 0 0 8.se

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as appropriate, unless informal resolution is pursued or there are grounds for dismissal of the complaint.

Allegations Potentially Falling Under Two Policies

If the alleged conduct, if true, includes conduct that would constitute covered sexual harassment and conduct that would not constitute covered sexual harassment, the Title IX Grievance Process will be applied in the investigation and adjudication of all of the allegations.

Notice of Allegations

Upon initiating Binghamton University's Grievance Procedures, the Title IX Coordinator or designee shall provide a notice of allegations in writing to the Parties whose identities are known. Such notice will occur as soon as practicable after Binghamton University receives a complaint, if there are no extenuating circumstances. Binghamton University will provide the Notice of Allegations within 10 days after receiving a complaint.

Notice of Meetings and Interviews

Binghamton University will provide written notice of the date, time, location, participants, and purpose of all meetings or proceedings with su cient time for the Party to prepare to participate, if a Party is invited or expected to participate in any such meeting or proceeding.

Delays

Binghamton University allows for the reasonable extension of timeframes on a case-by-case basis for good cause with written notice to the Parties that includes the reason for the extension or delay.

Investigation

The Title IX Coordinator and/or an investigator designated by the Title IX Coordinator will perform an investigation of the conduct alleged to constitute Sex-Based Harassment in a reasonably prompt timeframe, after issuing the Notice of Allegations.

Binghamton University, and not the Parties, has the burden to conduct an investigation that gathers su cient evidence to determine whether Sex-Based Harassment occurred under the Grievance Procedures. This burden does not rest with either Party, and either Party may decide not to share their account of what occurred, or may decide not to participate in the investigation or hearing. This does not shift the burden of proof away from Binghamton University, and does not indicate responsibility.

Binghamton University cannot access, consider, or disclose medical records without a waiver from the Party (or parent, if applicable) to whom the records belong, or of whom the records include information. Binghamton University will provide an equal opportunity for the Parties to present witnesses, including fact and expert witnesses, and other inculpatory or exculpatory evidence, as described below.

An investigation shall take 21 business days to complete. If there are any delays or extensions, the Title IX Coordinator or designee must appropriately notice the Parties in writing.

Inspection and Review of Evidence

Each Party will have an equal opportunity to present fact witnesses and other inculpatory and exculpatory evidence that are Relevant and not otherwise impermissible, to the investigator designated by the Title IX Coordinator. The investigator designated by the Title IX Coordinator will review all evidence gathered through the investigation and determine what evidence is Relevant and what evidence is impermissible regardless of relevance, consistent with the Grievance Procedures.

Each Party and their advisors of choice will have an equal opportunity to review and access the evidence that is Relevant to the allegations of sex-based discrimination and not otherwise impermissible regardless of relevance prior to the conclusion of the investigation. The investigator designated by the Title IX Coordinator will provide each Party with a reasonable opportunity to respond to the evidence. Both Parties will have the opportunity to respond to the evidence during the live hearing.

Binghamton University will take reasonable steps to prevent and address the Parties' and their advisors of choice's unauthorized

otherwise resolved through an informal resolution process as outlined in the Grievance Procedures.

The live hearing may be conducted with the Parties physically present in the same geographic location. Binghamton University has the discretion to conduct the live hearing with the Parties physically present in separate locations, with technology enabling the decisionmaker and Parties to simultaneously see and hear the Party or the witness while that person is speaking. A Party may also request this option prior to the hearing.

Binghamton University shall create an audio or audiovisual recording or transcript of any live hearing and make it available to the Parties for inspection and review.

Hearing Procedures

For all live hearings conducted, the hearing board chair will open and establish rules and expectations for the hearing. The Parties will each be given an opportunity to provide opening statements. Questioning of the Parties and witnesses will occur according to the procedures below.

During a live hearing, each Party is allowed to ask Relevant and not otherwise impermissible questions and follow-up questions of the Parties and witnesses through the hearing board chair. No questioning to another Party or witness will be conducted by a Party personally.

The hearing board chair will determine whether a proposed question is Relevant and not otherwise impermissible as described in the Grievance Procedures, prior to the question being posed, and will explain any decision to exclude a question as not Relevant or otherwise impermissible.

A panel of 3 decisionmakers may choose to place less or no weight upon statements by a Party or witness who refuses to respond to questions deemed Relevant and not impermissible.

The panel of 3 decisionmakers must not draw an inference about whether Sex-Based Harassment occurred based solely on a Party's or witness's refusal to respond to such questions.

Binghamton University may determine that multiple sessions or a continuance (a pause on the continuation of the hearing until a later date or time) is needed to complete a hearing. If so, Binghamton University will notify all participants and endeavor to accommodate all participants' schedules and complete the hearing as promptly as practicable.

As a general rule, no new evidence or witnesses may be submitted during the live hearing.

Determination Regarding Responsibility

Binghamton University uses the preponderance of the evidence standard of proof to determine whether or not Sex-Based Harassment occurred. This means that the investigation and hearing determine whether it is more likely than not that a violation of the Grievance Procedures occurred.

The decisionmaker is required to evaluate Relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that Sex-Based Harassment occurred, whatever the quantity of the evidence is, the decisionmaker must not determine that Sex-Based Harassment occurred.

Determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the decisionmaker. Decisionmakers shall not draw inferences regarding a Party or witness' credibility based on the Party or witness' status as a Complainant, Respondent, or witness, nor shall it base its judgments in stereotypes about how a Party or witness would or should act under the circumstances.

Generally, credibility judgments should rest on the demeanor of the Party or witness, the plausibility of their testimony, the consistency of their testimony, and its reliability in light of corroborating or conflicting testimony or evidence. However, credibility judgments should not rest on whether a Party or witness' testimony is non-linear or incomplete, or if the Party or witness is displaying stress or anxiety.

Decision makers will afford the highest weight relative to other testimony to first-hand testimony by Parties and witnesses regarding their own memory of specific facts that occurred. Both inculpatory and exculpatory (i.e. tending to prove and disprove the allegations) evidence will be weighed in equal fashion.

A witness' testimony regarding third-Party knowledge of the facts at issue will be allowed, but will generally be accorded lower weight than testimony regarding direct knowledge of specific facts that occurred.

Components of the Determination Regarding Responsibility

All determinations on whether Sex-Based Harassment occurred will be communicated to the Parties in writing, simultaneously. The written determination will include:

- A description of the alleged Sex-Based Harassment;
- Information about the policies and procedures that Binghamton University used to evaluate the allegations;
- The decisionmaker's evaluation of the Relevant evidence and determination on whether Sex-Based Harassment occurred;
- Any Disciplinary Sanctions Binghamton University will impose on the Respondent, whether Remedies other than the imposition of Disciplinary Sanctions will be provided by Binghamton University to the Complainant, and, to the extent appropriate, other students identified by Binghamton University to be experiencing the effects of Sex-Based Harassment, if there is a finding that Sex-Based Harassment occurred; and
- Binghamton University's procedures for Complainant and Respondent to appeal.

Timeline of Determination Regarding Responsibility

If there are no extenuating circumstances, the determination regarding responsibility will be issued by Binghamton University within 10 business days of the completion of the hearing.

Finality

The determination regarding responsibility becomes final either on the date that Binghamton University provides the Parties with the written determination of the result of any appeal, or, if no Party appeals, the date on which an appeal would no longer be considered timely.

Appeals

Each Party may appeal a determination regarding responsibility. To appeal, a Party must submit their written appeal within 10 calendar days of being notified of the decision, indicating the grounds for appeal.

The limited grounds for appeal available are as follows:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination whether Sex-Based Harassment occurred or dismissal was made;
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that would change the outcome;
- The severity of sanction(s) is grossly disproportionate to the violation; and
- The finding that the student violated the Grievance Policy is incorrect.

Binghamton University will notify the Parties of any appeal, provide the Parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome, and will notify the Parties of the result of the appeal and the rationale for the result.

The submission of an appeal stays (or pauses) any sanctions for the period during which an appeal determination is being assessed. Supportive measures and remote learning opportunities remain available while an appeal is being deliberated and before a final decision has been made.

Appeals will be decided by an appeal panel, who will be free of conflict of interest and bias, and will not serve as investigator, Title IX Coordinator, or hearing decisionmaker in the same matter.

EMPLOYEE PROCESSES

The standard of evidence used by the Office of Human Resources is a preponderance of evidence.

The possible sanctions that the University may impose upon an employee following the results of any University disciplinary proceeding for an allegation of dating violence, domestic violence, sexual assault or stalking are: written counseling memorandum, written reprimand, monetary fine, suspension without pay, termination from employment, and such other action as the University may reasonably deem appropriate consistent with collective bargaining agreements. Pursuant to collective bargaining agreements these employment based penalties are subject to the grievance and hearing process as outlined in the union agreements.

Following an allegation of dating violence, domestic violence, sexual assault, or stalking victims may be offered protective measures such as accommodations to their academic, living, transportation, or working situations, or other accommodations if the victim requests them, they are reasonably available, and in accordance with collective bargaining agreements.

In accordance with collective bargaining agreements both accusers and accused will be notified of the results of, and any changes to, disciplinary proceedings.

Employees: Appeals of disciplinary actions for employees are governed by bargaining unit contracts.

FIRE SAFETY REPORT

Binghamton University and its Office of Environmental Health

PORTABLE ELECTRICAL APPLIANCES/SMOKING/ OPEN FLAME POLICIES

Residential hall safety policies related to portable electrical appli ances, smoking, open ames and evacuation in case of re are found in the University Housing License Agreement binghamton.edu/ residential-life/housing/forms.html .

PORTABLE ELECTRICAL APPLIANCES AND PROHIBITED ITEMS

(Found in the University Housing License-Item V: Safety and Security Section 3)

- Items not permitted in all rooms, ats, suites or apartments include, but are not limited to, non-UL-approved electrical items, halogen lamps, multi-headed lamps with plastic shades, extension cords, personal refrigerators larger than 5.5 cu. ft. (refrigerators less than 5.5 cubic feet are permissible), microwaves larger than 1,000 watts (microwaves less than 1,000 watts are permissible), kerosene lamps, space heaters, propane and other ammable liquids or harmful chemicals, window air conditioning units not provided by the University, mercury thermometers, fog and smoke machines, clothes washers and dryers, freestanding freezers larger than 5.5 cu. ft. (freezers less than 5.5 cubic feet are permissible), dishwashers, air conditioners, hot tubs, waterbeds, neon signs, wax or oil burners, natural holiday trees and any items otherwise prohibited by University policy.
- Deep-fat fryers, toaster ovens, wa e makers, gasoline stoves or open- ame cooking appliances, sternos, immersible heaters and open- coil hot pots and hot plates are also not permitted in all rooms, ats, suites or apartments.
- Co eemakers with hot plates or similar warming plates are not permitted. Co eemakers with internal heating devices, such as Keurig® or Tassimo®, are permissible.
- Air fryers, toasters, rice cookers and crock pots are not permitted in any bedroom, or in at or suite areas, but can be used within the common area kitchen in a hall or the kitchen area only of an apartment. Storage of these items is permitted in bedrooms, ats, and or suites as long as the unit has cooled, and it is not plugged in. In addition, all grills are prohibited for use on the grounds of residential communities, with this exception: charcoal grills may be used outdoors within the apartment communities as per the safety guidelines listed in the Univer sity's BBQ policy. binghamton.edu/o ces/environmental-health-safety/pdfs/ camp rebbq2018.pdf
- There are four acceptable locations for camp res on campus, these re pits are located at the following communities: Newing, Moun tainview , Hillside and Susquehanna. Permission must be sought from the appropriate community o ce and a permit obtained from EH&S prior to use. The following additional rules apply:
  a. The re will be maintained within the established ring, pit or barrel and ames kept less than EH&S prior to use. The folloM 0 0 8.5 64.8 20S3Tj EMC 3l5O7y/MCID 3857 >uT EMC /P <</Lang (en-US)/MC

The Binghamton University Faculty-Sta Handbook provides the following procedures that employees should follow in the case of a re: “In all cases of re, call the Binghamton University Emergency Dispatch Center at 911 or at 607-777-2222. If you discover a re, activate the nearest pull station to engage the building’s re alarm system. Immediately exit the building, closing the doors behind you. DO NOT use elevators during an evacuation” (Section III.H.5). Students are trained to follow the same procedures via the methods described above.

Individuals who discover that a re has occurred after the fact (e.g., the re has been extinguished and no re emergency exists) should immediately inform NYSUP at 607-777-2222.

PLANS FOR FUTURE IMPROVEMENTS IN FIRE SAFETY

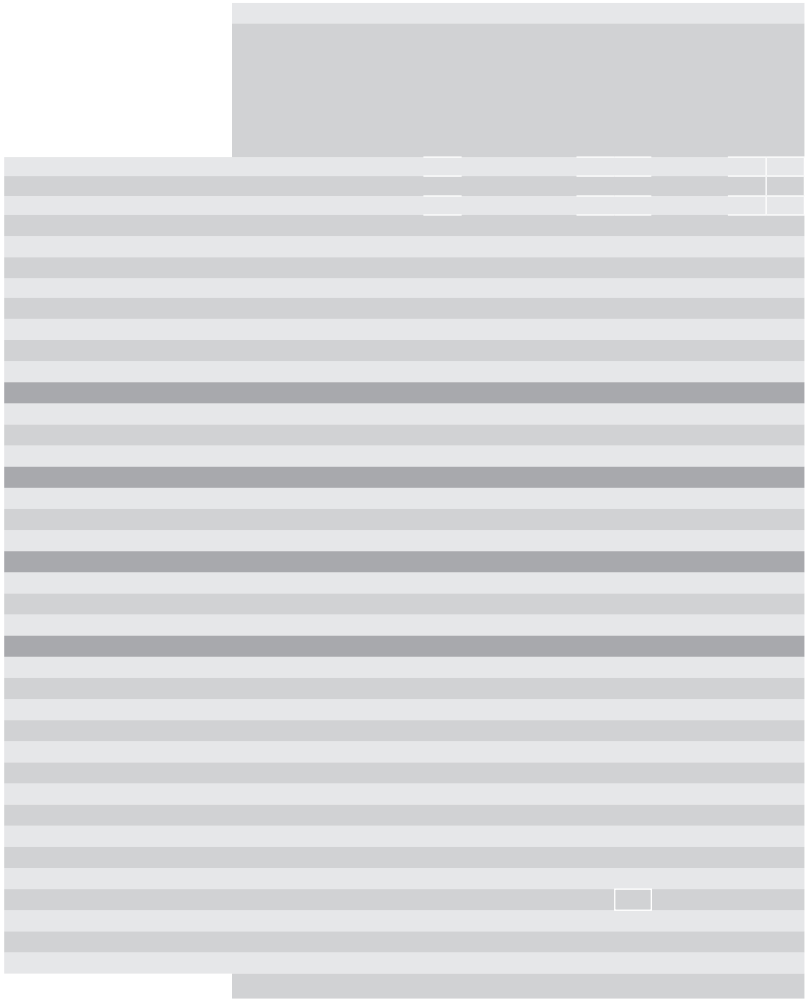
Fire safety systems upgrades continue throughout campus along with building renovations. Building renovations that are in progress are: Library South; completed renovations are Old Rafuse Hall and a new visitors center. EH&S has implemented an online mandatory re safety program for all employees.

FIRE LOG

The re log is a record of res that have occurred in any on-campus housing. The Binghamton University re log is available at the EH&S o ce, Decker Student Health Services fs0 TcF,e UnioP , 0 (y2t (ehat8 /A

FIRE LOG — The following is a list of res in residential facilities 2020-2023 Note: all street addresses end with “Vestal, NY 13850”

CRIMINAL OFFENSES
VESTAL



concealment, or use of rearms, cutting instruments, explosives, incendiary devices or other deadly weapons. This classi cation encompasses weapons o enses that are regulatory in nature.

NYS Penal Law de nition There are numerous prohibitions in NYS penal law regarding possessing weapons. These include:

265.01 Criminal possession of a weapon in the fourth degree. A person is guilty of criminal possession of a weapon in the fourth degree when: (1) He or she possesses any rearm, electronic dart gun, electronic stun gun, gravity knife, switchblade knife, pilum ballistic knife, metal knuckle knife, cane sword, billy, blackjack, bludgeon, plastic knuckles, metal knuckles, chuka stick, sand bag, sandclub, wrist-brace type slingshot or slungshot, shirken or “Kung Fu star”; or (2) He or she possesses any dagger, dangerous knife, dirk, machete, razor, stiletto, imitation pistol, or any other dangerous or deadly instrument or weapon with intent to use the same unlawfully against another..… Criminal possession of a weapon in the fourth degree is a class A misdemeanor.

There are also laws speci c to weapon possession on educational property. These include:

265.01-a — A person is guilty of criminal possession of a weapon on school grounds when he or she knowingly has in his or her possession a ri e, shotgun or rearm in or upon a building or grounds used for educational purposes, of any school, college, or university, except the forestry lands, wherever located, owned and maintained by the State University of New York College of Environmental Science and Forestry or upon a school bus as de ned in section 14 of the vehicle and tra c law, without the written authorization of such educational institution. Criminal possession of a weapon on school grounds is a class E felony.

265.06 — It shall be unlawful for any person age sixteen or older to knowingly possess any air-gun, spring-gun or other instrument or weapon in which the propelling force is a spring, air, piston or CO2 cartridge in or upon a building or grounds, used for educational purposes, of any school, college or university, without the written authorization of such educational institution. oA <</Lang (en-US)/MCID 6373 >>BDC BkOEMC /P <</S449.2lFhb to

rst degree when he or she engages in sexual intercourse with another person:

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Code of Student Conduct de nitionThe term “stalking” means engaging in a course of conduct (two or more acts, including, but not limited to, acts in which the stalker directly, indirectly or through third parties, by any action, method, device or means,

APPENDIX A

NYS PENAL LAW DEFINITIONS FOR SEX OFFENSES

1130.00 Sex o enses; de nitions of terms. The following de nitions are applicable to this article:

1. “Sexual intercourse” has its ordinary meaning and occurs upon any penetration, however slight.
2. (a) “Oral sexual conduct” means conduct between persons consisting of contact between the mouth and the penis, the mouth and the anus, or the mouth and the vulva or vagina. (b) “Anal sexual conduct” means conduct between persons consisting of contact between the penis and anus.
3. “Sexual contact” means any touching of the sexual or other intimate parts of a person 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, as well as the emission of ejaculate by the actor upon any part of the victim, clothed or unclothed.
4. For the purposes of this article “married” means the existence of the relationship between the actor and the victim as spouses which is recognized by law at the time the actor commits an o ense proscribed by this article against the victim.
5. “Mentally disabled” means that a person su ers from a mental disease or defect which renders him or her incapable of appraising the nature of his or her conduct.
6. “Mentally incapacitated” means that a person is rendered temporarily incapable of appraising or controlling his conduct owing to the in uence 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 unwilling ness 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
   c. 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, rectum or anus, is capable of causing physical injury.
10. “Sexual conduct” means sexual intercourse, oral sexual conduct, anal sexual conduct, 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, rectum or anus of a child, thereby causing physical injury to such child.
12. “Health care provider” means any person who is, or is required to be, licensed or registered or holds himself or herself out to be licensed or registered, or provides services as if he or she were licensed or registered in the profession of medicine, chiropractic, dentistry or podiatry under any of the following: article one hundred thirty-one, one hundred thirty-two, one hundred thirty- three, or one hundred forty-one of the education law.
13. “Mental health care provider” shall mean a licensed physician, licensed psychologist, registered professional nurse, licensed clinical social worker or a licensed master social worker under the supervision of a physician, psychologist or licensed clinical social worker.

APPENDIX B

ADDITIONAL INFORMATION ON NYS PENAL LAW DEFINITION OF CONSENT

A person is deemed incapable of consent when he or she is:

1. less than seventeen years old; or
2. mentally disabled; or
3. mentally incapacitated; or
4. physically helpless; or
5. committed to the care and custody or supervision of the State Department of Corrections and Community Supervision or a hospital, as such term is de ned in subdivision two of section four hundred of the correction law, and the actor is an employee who knows or reasonably should know that such person is committed to the care and custody or supervision of such department or hospital.

   For purposes of this paragraph, “employee” means:

   - an employee of the State Department of Corrections and Community Supervision who, as part of his or her emplɵy ment, performs duties:
     a. in a state correctional facility in which the victim is con ned at the time of the o ense consisting of providing custody, medical or mental health services, counseling services, educational programs, vocational training, institutional parole services or direct supervision to inmates; or
     b. of supervising persons released on community supervision and supervises the victim at the time of the o ense or has supervised the victim and the victim is still under community supervision at the time of the o ense; or
   - an employee of the O ce of Mental Health who, as part of his or her employment, performs duties in a state correctional facility or hospital, as such term is de ned in subdivision two of section four hundred of the correction law in which the inmate is con ned at the time of the o ense, consisting of providing custody, medical or mental health services, or direct supervision to such inmates; or
   - a person, including a volunteer, providing direct services to inmates in a state correctional facility in which the victim is con ned at the time of the o ense pursuant to a contractual arrangement with the State Department of Corrections and Community Supervision or, in the case of a volunteer, a written agreement with such department, provided that the person received written notice concerning the provisions of this paragraph; or
6. committed to the care and custody of a local correctional facility, as such term is de ned in subdivision two of section forty of the correction law, and the actor is an employee, not married to