NCAA Policy

NCAA coaches, college athletes and athletics administrators are required to complete education each year in sexual violence prevention, according to a policy adopted by the NCAA Board of Governors in August of 2017.

As part of the new policy, leaders on each NCAA campus — the school president or chancellor, athletics director and Title IX coordinator — must attest annually that coaches, athletics administrators and student-athletes were educated in sexual violence prevention.

Quick Links:

SUNY policies on sexual violence prevention and Response:


Farmingdale State College Title IX Sexual Harassment and Sexual Misconduct Policy:

What is Sexual Harassment?
In simplest terms, sexual harassment may be any behavior of a sexual nature, which is unwelcome. It may consist of physical and/or verbal behavior, or other actions that intimidate or offend an individual or group of persons.

The following actions may be considered sexual harassment:

- Unwanted sexual advances, propositions, or questions
- Unwelcome touching of a person’s body or clothing
- Standing close or brushing up against a person, or impeding or blocking movement
- Sexist, lewd or obscene remarks or jokes
- Sexual gesturing or leering
- Public displays of suggestive or sexually demeaning objects, photographs, posters, or cartoons
- Implied or overt threats, or punitive action as the result of rejection of sexual advances or rejection of romantic involvement
- Sexual Assault

While sexual comments or joking, personal advances and other behaviors may occur in some cases with no harm intended, such actions can be unwanted, threatening, and perceived as harassment. Stopping sexual harassment in its many forms requires an increased awareness by all persons of the impact that such actions may have on others.

Sexual Misconduct Policy
Intentional physical contact of a sexual nature with the body of another should not occur without the unequivocal consent of that individual. In the event of any indication that the contact or conduct is unwelcome, it should cease or not be attempted. “No” means “no”; “maybe” means “no”; silence means “no”; hesitation means “no”; and a “yes” that is followed by a change of mind also means “no”. If there is any doubt, the answer should be understood to be no, and sexual activity should cease. This policy applies regardless of the sexual orientation of the individuals involved. All teams will review this policy with their respective head coach.

Affirmative Consent Standard
"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."

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

- Title IX of the Education Amendments of 1972 states: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance."
- Title IX governs the overall equity of treatment and opportunity in athletics programming while giving schools the flexibility to choose sports based on student body interest, geographic influence, budget restraints and gender ratio. The primary focus at Farmingdale State College is on the necessity for women and men to have equal opportunities to participate in intercollegiate and recreational programs as a whole. Farmingdale fosters this environment by educating its students on all of our programs available for participation within the Department of Athletics, Wellness & Recreation.
- We are committed to equal opportunity. The College will not exclude any person from participation in its programs or activities on the basis of race, color, national origin, religion, creed, age, disability, sex, gender identity, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction.

New York State Law requires that all universities:

"Shall require that each Student-Athlete Complete Training On Domestic Violence, Dating Violence, Stalking, or Sexual Assault Prevention prior to participating in intercollegiate Athletic competition."

Farmingdale State College Athletics prohibits sexual assault, dating violence, domestic violence, stalking and sexual harassment and does not discriminate on the basis of sex in the education programs and activities. Sexual misconduct of any kind is a form of discrimination and is unacceptable at the College. We cultivate an atmosphere of freedom of expression, yet such an environment is only possible in conjunction with the responsibility to observe the rights of others.

The President and the College community will not tolerate sex discrimination nor condone it in any form, and are committed to providing and preserving an atmosphere free from sexual misconduct and sexual harassment.

Farmingdale State College is committed to the following goals:

1. Providing clear and concise guidelines for students to follow in the event that they or someone they know have been the victim of a sexual assault, domestic/intimate partner violence, or stalking.
2. Assisting victims of sexual assault or abuse in obtaining necessary medical care and counseling, whether on or off-campus.
3. Providing the most informed and up-to-date education and information to its students about how to identify situations that involve sexual assault, domestic and intimate partner violence, or stalking, and ways to prevent these forms of violence.
4. Educating and training all staff members, including counselors, public safety officers and student affairs staff and faculty, to assist victims of sexual assault, domestic/intimate partner violence, or stalking.
5. Ensuring that disciplinary procedures are followed in the event that the alleged perpetrator is one of our students or employees.
**Filing a Sexual Harassment Sex Discrimination Complaint**

**Faculty, Staff and Students**

The State University of New York (SUNY), in its continuing effort to seek equity in education and employment, and in support of federal and state anti-discrimination legislation, has adopted a complaint procedure for the prompt and equitable investigation and resolution of allegations of unlawful discrimination on the basis of race, color, national origin, religion, creed, age, sex, sexual orientation, disability, gender identity, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction. Harassment is one form of unlawful discrimination on the basis of the above protected categories. The College will take steps to prevent discrimination and harassment, to prevent the recurrence of discrimination and harassment, and to remedy its discriminatory effects on the victim(s) and others, if appropriate. Sex discrimination includes sexual harassment and sexual violence. Retaliation against a person who files a complaint, serves as a witness, or assists or participates in any manner in this procedure is strictly prohibited and may result in disciplinary action.

**Actions You Can Take**

If you are uncomfortable with taking direct action or if you have been unsuccessful in resolving the matter, discuss your complaint with your academic advisor or appropriate dean, department head, director or supervisor and attempt, if feasible, to resolve the complaint by mutual satisfaction. If you feel uncomfortable discussing your complaint with administrative or supervisory staff, discuss it with any of the following:

- Title IX Coordinator or a Deputy Coordinator
- Coach
- Residence Life Assistant
- Dean of Students
- University Police
- Counseling Center

**Investigation Process**

Pursuant to the State University of New York’s Discrimination Complaint Procedure, the complaint will be investigated expeditiously by the Executive Assistant to the President/Title IX Coordinator/Chief Diversity Officer. Confidentiality shall be maintained whenever possible. However, absolute confidentiality is not always possible. Complaints are handled with discretion according to the principles of due process and fundamental fairness as follows:

1. A person bringing a complaint in good faith will suffer no retaliation.
2. The complaint should be in writing and sufficiently detailed.
3. The person charged will be promptly notified and given an opportunity to respond.
4. Employees must file a complaint within 180 days of the incident. Complaints beyond the 180-day period will be evaluated on a case-by-case basis.
5. Students must file a complaint within 180 calendar days following the alleged discriminatory act or 90 calendar days after a final grade is received, for the semester during which the discriminatory acts occurred, if that date is later.

If a complaint is found to be valid, appropriate administrative action shall be taken, which may include, but is not limited to, counseling referrals, termination, demotion, reassignment, suspension, reprimand or training, depending on the severity of the behavior.
Retaliation against a person who files a complaint, serves as a witness, or assists or participates in any manner in this procedure is strictly prohibited and may result in disciplinary action. Retaliation is an adverse action taken against an individual as a result of complaining about unlawful discrimination or harassment, exercising a legal right, and/or participating in a complaint investigation as a third-party witness. Participants who experience retaliation should contact the campus Executive Assistant to the President/Title IX Coordinator, Dr. Veronica Henry at 631 420-2622.

Education and Training

NCAA coaches, college athletes and athletics administrators are required to complete education each year in sexual violence prevention, according to a policy adopted by the NCAA Board of Governors in August of 2017.

As part of the new policy, leaders on each NCAA campus — the school president or chancellor, athletics director and Title IX coordinator — must attest annually that coaches, athletics administrators and student-athletes were educated in sexual violence prevention.

Farmingdale State College Athletics shall develop materials and programs to educate its students, coaches, staff, and administration on the nature, dynamics, common circumstances and effects of sexual assault, domestic/intimate partner violence and stalking, and the means to reduce their occurrence and prevent them. Prevention education should provide up-to-date and relevant information, such as education pertaining to bystander intervention, the importance of peer networks and the significance of fostering a community of responsibility.

Prevention education materials and programs shall be incorporated into Life skills activities for all incoming undergraduate and graduate students (including transfers). Since the abuse of alcohol is frequently involved in occurrences of sexual assault and other forms of violence, athletes, coaches, and administrators will be educated about the deleterious effects of alcohol abuse. FSC Athletics will use various opportunities throughout the academic year to educate our students/staff, including but not limited to:

- **NCAA Compliance Orientation Meetings**
- **Various Workshops (i.e. One Love Foundation training, SAAC Meetings, Speakers, etc.)**
- **Training with Campus Title IX Coordinator**
- **Training with Life Skills Coordinator**
- **Coaches Meetings**
- **The athletic department will offer outreach to other student groups on campus, such as Greek life, clubs and organizations.**
Definitions

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.

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

Anonymous Complaints
Complaints of sexual misconduct filed with the Title IX Coordinator may be filed anonymously, meaning that the complainant files the complaint or report without identifying him- or herself. Anonymous reporters are encouraged to speak with the Title IX Coordinator or an investigator so as to understand the potential limitations for an investigation being conducted based on an anonymous report.

Complainant
The term “complainant” refers to the alleged victim of sexual misconduct, whether reported by the alleged victim or a third party.

Confidential Resources
“Confidential Resources” include licensed mental health counselors, pastoral counselors, social workers, psychologists, psychiatrists and any other persons who have a legal obligation to protect confidentiality when acting in a professional capacity unless there is an imminent threat to health or safety, or other basis for disclosure pursuant to law. Confidential Resources are thus only exempt from reporting requirements when acting in their professional capacity that is considered confidential (for example, communications between a licensed psychologist and a client in a counseling capacity is confidential as opposed to communications during instruction by a licensed psychologist in a classroom setting or when conducting training for students on sexual misconduct awareness and prevention).

Consent
Sexual activity of any kind requires “consent,” which consists of the following:

- Consent means clear and voluntary agreement between participants to engage in the specific act.
- Consent requires a clear “yes,” verbal or otherwise; it cannot be inferred from the absence of a “no.”
• Consent cannot be obtained from someone who is unconscious, asleep, physically helpless, or incapacitated (including, but not limited to, mentally incapacitated). A person is incapacitated when she or he is unable to make a rational decision because the person lacks the ability to understand his or her decision. A person who is incapacitated is unable to consent to sexual activity. A person can become incapacitated as a result of physical or mental disability, involuntary physical constraint, being asleep or unconscious, or consumption of alcohol or other drugs. A person can consume alcohol and/or drugs without becoming incapacitated.

• Consent cannot be obtained by pressure, threats, coercion or force of any kind, whether mental or physical. Consent means actually agreeing to the specific sexual activity, rather than merely submitting as a result of pressure, threats, coercion or force of any kind, whether mental or physical.

• Consent cannot be obtained from an individual who is under the legal age of consent.

• Consent must be ongoing throughout a sexual encounter and can be revoked at any time.

• Consent to some sexual acts does not necessarily imply consent to others.

• Past consent does not necessarily imply ongoing or future consent.

• Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.

Dating Violence [1]
The term “dating violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party’s statement and with consideration of: the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse, but excludes acts covered under domestic violence.

Domestic Violence [2]
The term “domestic violence” means 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 in which the crime of violence occurred, or by any other person against an adult or youth victim who is protected from the person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred. Domestic violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

Discrimination
The term “discrimination” means treating a member of the community unfavorably because that person is a member of a protected class. The College prohibits discrimination on the basis of: race, color, national origin, ethnicity, age, disability, religion, sex, gender, pregnancy, veteran status, marital status, sexual orientation, gender identity or expression, and genetic information.

Hostile Environment
A “hostile environment” results from unwelcome conduct that is sufficiently severe, pervasive, or persistent that it interferes with or limits the ability of a member of the community to participate in or to receive benefits, services, or opportunities from the College’s programs or activities. The environment can be the result of acts committed by any individual or individuals, including any member of the College community.
Interim Measures
The term “interim measures” means reasonably available and feasible measures, accommodations, or steps the college may take following an incident or while a matter under these Procedures is pending to assist, support or protect the complainant, respondent or another person and/or to protect the integrity of the investigation and resolution process.

Preponderance of the Evidence
A “preponderance of the evidence” means that the respondent more likely than not engaged in the conduct at issue in light of the evidentiary record.

Respondent
The term “respondent” refers to the person alleged to have committed sexual misconduct.

Responsible Employee
A “Responsible Employee” is any College employee who has the authority to redress sexual misconduct, has the duty to report sexual misconduct to the Title IX Coordinator, or whom a student reasonably believes has such authority or duty. Responsible Employees include academic administrators, academic advisors, supervisors, department heads and chairs, directors, deans, student affairs staff, faculty, human resources personnel, campus security officers, resident advisors, and athletic coaches. Responsible Employees must promptly report all known relevant information to the Title IX Coordinator, including the name of the complainant, respondent, and any witnesses and any other relevant facts, including the date, time, and location of the misconduct.

Relationship Violence
The term “relationship violence” means dating violence and domestic violence.

Retaliation
The term “retaliation” means intimidating, threatening, coercing, or in any way discriminating against an individual because the individual made a report or complaint of sexual misconduct or participated in any way in the investigation or resolution of such a report or complaint, or exercised any right or responsibility under the Policy, these Procedures or the law.

Examples of retaliation include, but are not limited to, the following: a professor issues a student a lower grade because the student appeared as a witness in a proceeding under these Procedures; a supervisor denies a request to attend a conference by a staff member who claimed that she was sexually harassed by the supervisor; and a department chair removes a post-doctoral fellow from his lab after learning that the post-doctoral fellow testified at a sexual misconduct hearing concerning the faculty member in charge of the lab.

Sexual Assault
The term “sexual assault” includes, but is not limited to:

Nonconsensual Sexual Intercourse or Rape, which is any act of sexual intercourse with another individual against a person’s will or without consent, where sexual intercourse includes vaginal or anal penetration, however slight, with any body part or object, or oral penetration involving mouth to genital contact.

Nonconsensual Sexual Contact, includes: fondling, which is any intentional touching of the intimate parts of another person or causing another to touch one’s intimate parts against a person’s will or without consent, where intimate parts may include genitalia, groin, breast, or buttocks, or clothing covering them, or any other body part that is touched in a sexual manner; disrobing or exposure of another against a person’s will or without consent; other sexual acts or sexual contact against a person’s
will or without consent; sexual battery; sexual coercion; and attempted non-consensual sexual intercourse.

- Incest, which is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape, which is sexual intercourse with a person who is under the statutory age of consent.
- Resistance of any form need not occur to fulfill the definition of sexual assault.

**Sexual Harassment**

The term “sexual harassment,” whether between people of different sexes or the same sex, includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, sexual assault and other verbal or physical conduct of a sexual nature when:

- Submission to such conduct is implicitly or explicitly a term or condition of an individual’s employment or participation in an educational program;
- Submission to or rejection of such conduct by an individual is used as the basis for personnel decisions or for academic evaluation or advancement; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual’s work or academic performance or creates an intimidating, hostile or offensive working or educational environment.
- Examples of conduct that may, depending on the facts and circumstances, constitute sexual harassment include, but are not limited to: making comments about someone’s appearance in a sexually suggestive way; staring at someone or making obscene gestures or noises; repeatedly asking someone on a date; stalking (including cyber stalking); “flashing” or exposing body parts; spreading sexual rumors; rating peers or colleagues with respect to sexual performance; non-consensual observation, photographing, or recording of sexual activity or nudity; non-consensual distribution or dissemination of photographs or recordings of sexual activity or nudity, including distribution or dissemination of photographs or recordings that were made consensually; allowing a third party to observe sexual activity without the consent of all parties; and prostituting or trafficking another person.

**Sexual Misconduct**

The term “sexual misconduct” includes sexual harassment, sexual assault, relationship violence, and stalking.

**Stalking**

The term “stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person’s safety or the safety of others, or suffer substantial emotional distress. For purposes of this definition, course of conduct means two or more acts, including, but not limited to, acts in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates with another person, or interferes with that person’s property.

**Sexual Violence**

Physical sexual acts perpetrated against a person’s will or where a person is in-capable of giving consent.