

## **(TITLE IX) SEXUAL DISCRIMINATION AND SEXUAL ASSAULT**

“No person in the United States shall, on basis of sex, be excluded from participation, in, be denied the benefits of, or be subject to discrimination under any educational program or activity receiving Federal financial assistance”. – Title IX of the Educational Amendments of 1972 to the 1964 Civil Rights Act.

In accordance with Federal and State laws and regulations, Herkimer College **prohibits** discrimination and harassment on the basis of race, color, national origin, political beliefs, age, religion, sex, gender identity, sexual orientation, marital status, military status, predisposing genetic characteristics, or disability, including pregnancy in acceptance for and/or provision of services, employment, and access to services, programs, and activities.

### **Athletic Equality**

Title IX governs the overall equality of opportunity and treatment in athletic programs while giving flexibility to choose sports based on student interest, geographic influences, budget restraints, and gender ratio. Herkimer College’s primary goal is to have equal opportunity for men and women to participate in intercollegiate and recreational programs.

### **Additional Discrimination**

The most common applications of the Title IX law apply to Athletic Equality and Sexual Harassment. Title IX also applies to admissions, financial aid, academic matters, career services, counseling services, medical services, and all other programs and services available to Herkimer College students.

### **Sexual Harassment**

The Equal Employment Opportunity Commission has amended its Guidelines on Discrimination because of Sex, in order to clarify its position on the issue of sexual harassment, an unlawful employment practice.

1. “The guidelines define sexual harassment as: Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature... when
  - submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment,
  - submission or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
  - such conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment.”
2. Though the guidelines are based on Title VII and apply only to sexual harassment in the workplace, consistent with SUNY’s policy to ensure fair treatment to all individuals, protection for students is to be provided by these same guidelines.
3. Herkimer College has an existing formal grievance procedure for the benefit of its employees and students. The grievance procedure will be used for the review of any allegations an employee or student may have against another employee or student of Herkimer College.

### **Complaint/Grievance Procedure**

A grievance may be filed for ANY unlawful discrimination against someone in regard to race, color, national origin, religion, age, sex, disability or marital status, political beliefs, gender identity, sexual orientation, military status, predisposing genetic characteristics, or disability, including pregnancy. A formal complaint may be filed with a Campus Title IX Compliance Officer.

Each student of Herkimer College has an obligation to report discrimination and prohibited sexual harassment to an appropriate College official. Any student who believes he or she is the victim of discrimination or prohibited harassment should report it to a Campus Title IX Compliance Officer or any other faculty or staff member with whom he or she feels most comfortable.

All Inquiries, complaints, grievances, and investigations are treated with sensitivity, seriousness, and confidentiality. Only when required by law or when there is issue of safety, will confidential information be shared with the appropriate individuals without the complaint's knowledge.

Herkimer College Campus TITLE IX Compliance Officers review, update, and implement current Title IX policies. They coordinate training and resources, in order to, ensure effective and timely responses to complaints, misconduct, discrimination, and/or harassment.

### **CAMPUS TITLE IX COMPLIANCE OFFICERS:**

Director of Human Resources  
Office Location, CC 241 • Phone (315) 866-0300, x8332

Dean of Students  
Office Location, CA 264 • Phone (315) 866-0300, x8276

#### **Filing a Complaint/Grievance**

A complaint/grievance of discrimination and harassment may be made in the Human Resources Office or the Dean of Students' Office. For cases involving employees (complaints between employees and/or between employees and students), complaints should be filed with the Director of Human Resources. For cases involving students (complaints between students), complaints should be filed with Dean of Students. Students or employees will have 90 calendar days to formally file a complaint. Faculty or staff members who receive a complaint from a student must immediately inform a designated Campus Title IX Compliance Officer.

#### **Formal Resolution (Complaints between Students)**

Once a complaint of discrimination or prohibited harassment has been made, either in writing or orally, or observed discrimination or harassment has been reported, the designated Campus Title IX Compliance Officer (Dean of Students) will have 14 calendar days to investigate the complaint and communicate in writing a response to the grievant and the individual alleged to have committed the act, describing any actions that will be taken to redress the issue. While the investigation is being conducted, appropriate immediate steps to end the alleged discrimination and/or harassment will be taken. The Dean of Students then has the discretion of mediating the complaint, sending the case to an Administrative Hearing, or sending the case to the Judicial Review Board. The Dean of Students shall then be obligated to communicate in writing his/her decision to the grievant and the individual alleged to have committed the act, within 14 calendar days after receiving the grievant's complaint.

#### **Formal Resolution (Complaints between Employees and/or Complaints between Employee and Student)**

Once a complaint of discrimination or prohibited harassment has been made, either in writing or orally, or observed discrimination or harassment has been reported, the designated Campus Title IX Compliance Officer (Director of Human Resources) will have 14 calendar days to investigate the complaint and communicate in writing a response to the grievant and the individual alleged to have

committed the act, describing any actions that will be taken to redress the issue. While the investigation is being conducted, appropriate immediate steps to end the alleged discrimination and/or harassment will be taken. The Director of Human Resources then has the discretion of mediating the complaint.

The Director of Human Resources shall then be obligated to communicate in writing his/her decision to the grievant and the individual alleged to have committed the act, within 14 calendar days after receiving the grievant's complaint.

### **Appeal Process**

If the grievance has not been satisfactorily resolved by formal resolution, the grievant may then appeal the decision to the President of Herkimer College within 14 calendar days after receiving the decision rendered. The President shall then be obliged to give the grievant a hearing within 14 calendar days of receipt of the appeal.

The grievant and the individual alleged to have committed the act shall be notified in writing of the hearing at least seven (7) calendar days prior to the date set for such a hearing. At the hearing, the grievant and/or his/her representative, and the individual alleged to have committed the act, and his/her representative may appear and present oral and/or written statements either directly or through witnesses. The President shall then be obliged to communicate his/her decision in writing together with his/her supporting reasons to the grievant and the individual alleged to have committed the act, within 14 calendar days after the completion of the hearing. The decision made as a result of an appeal to the President of the College is considered final.

Herkimer College takes complaints of discrimination and prohibited harassment with the greatest seriousness. For that reason, any individual who is found to have engaged in conduct which violates this policy will be subject to discipline. For students, discipline may include the possibility of suspension or expulsion from the College.