

Skidmore College
Title IX Policy for Faculty (Interim)
2024-2025
August 1, 2024

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I. Notice of Non-Discrimination

Skidmore College does not discriminate on the basis of sex in its educational, extracurricular, athletic, or other programs or in the context of admissions or employment. Sex discrimination is prohibited by Title IX of the Education Amendments of 1972, a federal law that provides that:

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Case Center 311
815 North Broadway
Saratoga Springs, NY 12866

II. Statement of Institutional Values

Skidmore College is committed to promoting a campus environment where discrimination, sex-based harassment, sexual assault, domestic violence, dating violence, stalking, and exploitation are not tolerated, and where every member of the community shares in the responsibility of preventing and addressing sexual and gender based misconduct. The College also is committed to providing survivors and all community members affected by sexual and relationship violence support and avenues of redress as appropriate. Sex discrimination, sex-based harassment, sexual assault, domestic violence, dating violence, and stalking are violations of Skidmore College policy with some also representing violations of criminal law as defined by the State of New York and the Violence Against Women Act.

III. Scope of this Policy

All members of the Skidmore College community have an obligation to act responsibly in the realm of sexuality, gender, and relationships, recognize and challenge any sexual and gender based misconduct, and to adhere to College policies local, state, and federal law.

This policy applies specifically to sex discrimination and sex-based harassment as defined by Title IX occurring on Skidmore College property or at other locations at which the College

As long as the College has jurisdiction over the Respondent, there is no time limit to invoking this policy in cases of alleged sexual and gender-based misconduct. Nevertheless, persons are encouraged to report alleged sexual and gender-based misconduct as soon as possible in order to maximize the College's ability to respond promptly and effectively.

Complaints against a third party not under the jurisdiction of this Policy will be resolved under appropriate College policies, depending on the identity of the third party and the third party's relationship with the College. Complaints against a third party may not be able to be resolved through the College process. Regardless, appropriate support resources and measures are still available to the Complainant, and every effort will be made to assist the Complainant in filing a complaint against the Respondent through the appropriate channels (i.e. police, current workplace, current institution they attend, etc.)

Skidmore College strongly encourages reports of any sexual and gender-based misconduct. Title IX sex discrimination and sex-based harassment and any other form of discrimination and harassment, regardless of who engaged in the conduct. Even if the College does not have jurisdiction over the Respondent, the College will take prompt action to provide for the safety and well-being of the Complainant and the broader campus community and will take all steps feasible to address and remedy the conduct

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Notice of Allegations a document created by the Title IX Coordinator informing the Complainant and Respondent of the sexual and gender-related misconduct alleged against the Respondent. The notice will also include the grievance procedures,

Incapacitation can also occur because of an individual's physical or mental condition or disability that impairs the individual's ability to provide consent. Incapacitation as a result of a physical or mental

- x Describe the incident to as few institution representatives as possible and not be required to unnecessarily repeat a description of the incident;
- x Be accompanied by an advisor of choice who may assist and advise a Complainant or Respondent throughout the process including during all meetings and panels related to such process; and
- x Be protected from retaliation by the institution, any student, employee, the Complainant, and/or their friends, family and acquaintances within the jurisdiction of the institution;
- x Have a meeting with the Title IX Coordinator or official managing the process;
- x Review a copy of the final report and investigation materials;
- x Be notified of the outcome
- x Access to at least one level of appeal of a determination;
- x Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or conduct process of the institution

The Respondent will have the right to

- x Be presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process
- x Have an advisor present as an observer during the complaint process;
- x Receive a copy of the written complaint;
- x Be granted confidentiality, to the extent possible, throughout the process (as described above);
- x Respond to the complaint;
- x Review and sign their own statement and receive a copy;
- x Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
- x Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
- x Be accompanied by an advisor of choice who may assist and advise a Complainant or Respondent throughout the process including during all meetings and panels related to such process; and
- x Be protected from retaliation by the institution, any student, employee, the Complainant, and/or their friends, family and acquaintances within the jurisdiction of the institution;
- x Have a meeting with the Title IX Coordinator or official managing the process
- x Review a copy of the final report and investigation materials
- x Be notified of the outcome
- x Access to at least one level of appeal of a determination;
- x Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or conduct process of the institution.

Witnesses to the complaint (other than the Complainant or Respondent) will have the right to

- x Have a representative (not an attorney) present as an observer during the complaint process;
- x Be granted confidentiality, to the extent possible, throughout the process (as described in Section IV above);
- x Review and sign their own statements and receive copies; and
- x Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or conduct process of the institution.

VII. Prohibited Condu ct (As Defined By Title IX)

The definitions of sex discrimination and sex-based harassment under Title IX are specific terms determined by the Department of Education. Skidmore College categorizes both under “Sexual and Gender-Based Misconduct” or “SGBM” included within the Department’s definition of sex discrimination is discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity included within the Department’s definition of sex-based harassment are the Department’s formal definitions for sexual assault, domestic violence, dating violence, and stalking in accordance with the Violence Against Women Act (VAWA)

Sexual and gender-based misconduct may vary in its severity and consists of a range of behaviors. The following descriptions represent sexual behaviors and gender-based misconduct that violate Skidmore’s community standards and values of respect, civility, and personal integrity as Title IX. These behaviors are serious violations and represent a threat to the safety of the Skidmore Community. Other forms of sexual behaviors and gender-based misconduct involving faculty that may violate Skidmore’s community standards and values are addressed in part six of the Faculty Handbook.

For purposes of this Policy, SGBM (ie. Title IX sex discrimination and sex-based harassment) includes the following forms of misconduct occurring on Skidmore College property or at other locations within the United States at which the College exercises substantial control over the alleged Respondent(s) and context in which the SGBM occurs, and also includes such conduct occurring at any building owned or controlled by a recognized student organization. Finally, if any such misconduct would occur on property or at location that is not controlled by Skidmore College or a recognized student organization of the College but contributes to a hostile environment of college property, this Policy would also have jurisdiction assuming the College exercises control over the Respondent. The policy of Skidmore College to hold individuals accountable for the following actions that violate this policy:

Sex Discrimination

Discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Sex discrimination is different treatment with respect to an individual’s employment or participation in an education program or activity based, in whole or in part, upon the individual’s actual or perceived sex, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Sex discrimination also includes allegations of a failure to provide reasonable accommodations or supportive measures as required by law or policy. Sex discrimination can take two primary forms, not including sex-based harassment

x Disparate Treatment

Any intentional differential treatment of a person or persons that is based on an individual’s actual or perceived sex, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity and that:

- o Excludes an individual from participation in;
- o Denies the individual benefits of; or

- o Otherwise adversely affects a term or condition of an individual's participation in a Recipient program or activity.

x Disparate Impact

Disparate impact occurs when policies or practices that appear to be neutral unintentionally result in a disproportionate impact on a protected group or person based on that individual's actual or perceived sex, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity and that:

- o Excludes an individual from participation in;
- o Denies the individual benefits of; or
- x Otherwise adversely affects a term or condition of an individual's participation in a Recipient program or activity.

~~Sex~~Based Harassment

Conduct on the basis of sex that aligns ~~with~~ or more of the following conditions as defined by Title IX:

- x An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct;
- x Unwelcome ~~sex~~based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the College ~~education~~ program or activity (i.e., creates a hostile environment); or
- x Sexual Assault, ~~Dating~~ Violence, Domestic Violence, and Stalking ~~as~~ defined below as required by the United States Department of Education:

~~Sexual~~ Assault

Any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent described as follows:

- x Rape is the penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- x Fondling is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of ~~the age~~ or because of ~~the~~ temporary or permanent ~~mental~~ incapacity.
- x Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- x Statutory Rape is sexual intercourse with a person who is under the statutory age of consent

This definitions above align with the definition of Rape, Fondling, Incest or Statutory Rape as used in the

Please note that in order for an alleged Domestic Violence incident to be investigated under the policy, the relationship between the Complainant and Respondent must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have a relationship status as described above.

Individuals who are victims of Domestic Violence in New York may seek a civil Order of Protection through Family Court. Criminal Orders of Protection may be issued if criminal charges are filed and an arrest is made. For more information, refer to Section 9 of this policy and/or see the New York State Law.

Stalking

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- x Fear for the person's safety or the safety of others; or
- x Suffer substantial emotional distress.

For the purposes of this definition:

- x Course of conduct means 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, follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person's property.
- x Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- x Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.

Stalking as defined above may not always be "on the basis of sex" (for example when an individual stalks an athlete due to celebrity worship rather than sex), but when stalking is "on the basis of sex" (for example, when the stalker desires to date the victim) stalking constitutes sex-based harassment for purposes of this policy. Stalking that does not constitute sex-based harassment because it is not "on the basis of sex" may be addressed under other applicable College policies.

Retaliation

In addition to prohibiting Title IX sex discrimination and sex-based harassment, this Policy also prohibits Retaliation based on an individual who reports, or complains about an alleged violation of, or who otherwise participate in good faith in, the procedures set forth in this Policy. Neither the College nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, or proceeding under this policy. Intimidation, threats, coercion, or discrimination, including charges against an individual for Faculty Handbook violations that do not involve sex discrimination or sex-based harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or Formal Complaint of sex-based harassment that are undertaken for the purpose of interfering with any right or privilege secured by Title IX or this policy, constitutes retaliation.

Consent to any sexual act or prior consensual ~~sexuality~~ ^{sexuality} between or with any party does not necessarily constitute consent to any other sexual act. Each new sexual act requires new consent. Affirmative consent has time boundaries.

Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.

VIII. Confidential & Support Resources

Skidmore College is committed to creating an environment for individuals to report incidents of SGBM. Members of the Skidmore community are strongly encouraged to seek support and information from available reporting sources. Immediate reporting is essential for the protection of students. All sources will provide the Complainant with information about obtaining support, resources, and the process associated with making a report of Formal Complaint with the College and/or with a law enforcement agency.

The College will endeavor to respect the wishes of the Complainant regarding how and if to move forward; however, in some circumstances, the College will have to move forward. Under these circumstances, the College will weigh the request for confidentiality or that no further action be taken against the certain factors including but not limited to those described below in the section of this policy entitled "Requesting Confidentiality/No Further Action."

All individuals shall have the right to emergency access to the Title IX Coordinator, Campus Safety or other trained official who shall be available upon the first instance of disclosure by a Complainant to provide information regarding options to proceed and, where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible, as well as other pertinent information.

*NYS Sexual Violence Hotline:

- o English: 1800-942-6906
- o Spanish: 1800-942-6908
- o English TTY: 1800-818-0656
- o Spanish TTY: 1800-780-7660

Supportive Measures

Regardless of whether the Complainant wishes to pursue a Formal Complaint, the College will consider the information provided and take such prompt and effective action as is reasonably possible under the circumstances to support and protect the parties involved and protect the College community. Additionally, the College may choose to impose other measures at its discretion to restore or preserve equal access to its education programs and activities without unreasonably burdening the other party, including measures designed to ensure the safety of all parties, the broader College community, and/or the integrity of the process and/or to deter sex discrimination or sex-based harassment or violence against an individualized analysis as required by Title IX.

The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures and can be contacted to review all available supportive measures. Please note that supportive measures are available at the request of either the Complainant or Respondent with or without the filing of a Formal Complaint.

All individuals are encouraged to report concerns about failure of another individual to abide by any requirements applied by a supportive measure. The College will take immediate and responsive action to enforce a previously implemented measure.

The College will maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the College's ability to

College's policy even if it is not a crime or law enforcement agencies lack sufficient evidence of a crime and therefore decline or are unable to prosecute.

The filing of a report of sexual or gender-based misconduct with the College is independent of any criminal investigation or proceedings except that the College's investigation may be delayed temporarily while the criminal investigators gather evidence. The College will not necessarily wait for the conclusion of any criminal investigation or proceedings to commence its own investigation and provide supportive measures to the Complainant and protect the College community as necessary.

Timely Warning

If a report of sexual or gender-based misconduct under this policy or other policies discloses information indicating a serious or continuing threat to the Skidmore community, the College may issue a campus wide timely warning (which can take the form of campus flyers and/or an email/text communication to campus community) to protect the health or safety of the community. The College will make every effort to ensure that a Complainant's name and other identifying information are not disclosed, while still providing enough information for community members to make safety decisions in light of the danger.

At no time will the College release the name of the Complainant to the general public without the express consent of the Complainant. The release of the Respondent's name to the general public is guided by Family Educational Rights and Privacy Act (FERPA) and the Clery Act.

All College proceedings are conducted in compliance with the applicable requirements of FERPA, the Clery Act, Title IX, the Violence Against Women Act ("VAWA"), New York's Enough Is Enough law, and other state and federal laws. No information shall be released from such proceedings except as required or permitted by law and College policy.

Order of Protection

Complainants have the right to be assisted by Campus Safety or other official resources in obtaining a court ordered order of protection or, if outside of New York State, an equivalent protective or restraining order. An order of protection can only be issued by a judge if a criminal complaint is made.

If the College receives an order of protection, a copy of the order will be shared with the Complainant. Either party will have an opportunity to meet or speak with a College representative, or other appropriate individual, who can explain the order and answer questions about it, including information from the order about the Respondent's responsibility to stay away from the protected person or persons. Consequences for violating these orders may include, but are not limited to, arrest, additional conduct charges, and/or interim suspension.

In the event of a violation of the order of protection, Complainants may receive assistance from

Police can make immediate arrests if they have good reason to believe those conditions have been violated. The point of an Order of Protection is to maintain peace and provide protection until all the facts have been gathered and the case is heard in Court.

- o Whether the Respondent has a history of arrests or records from a prior school indicating a history of violence;
- o Whether the Respondent threatened further sexual and gender-based misconduct or other violence against the Complainant or others;

will refer the matter to the appropriate personnel for review. Please see the Appeals section below for further information about the appeals procedure.

Please note that the filing of a Formal Complaint or the initiation of an investigation under this policy is not a presumption that the Respondent is responsible for the alleged conduct.

In accordance with the 2020 and 2024 Title IX regulations, throughout the process, the Respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the process.

Formal Complaint Procedures

The Formal Complaint, using the information from the Notice of Allegations, will be prepared by the Title IX Coordinator (TIXC), confirmed by the Complainant, and provided to the Respondent with a complete description of the alleged incident(s) or actions leading to the complaint with sufficient detail to allow the Respondent to prepare a defense to the allegations.

When a faculty or staff member is formally accused of sexual harassment, the TIXC or designee will assign an Investigator to conduct the investigation independently or in conjunction with another trained professional.

Advisory Panel

When a faculty member is formally accused of harassment or discrimination, the TIXC or designee will still assign an Investigator to conduct the investigation. However, the College's procedures establish opportunities for other faculty members to provide advice to the Investigator to contextualize other relevant faculty policies, procedures and expectations and to support the overall investigation. Such faculty advice will be provided through the Advisory Panel (AP).

After receiving the Formal Complaint against a faculty member, the TIXC will convene the Advisory Panel (AP) to meet with the Investigator.

In the case of complaints by staff members against faculty members, the AP will consist of two tenured (tenured)

additional inquiry necessary, including informally meeting with parties or any witnesses, if needed. Upon reviewing the relevant evidence, the adjudicator may also choose to pose additional questions:

- x To the extent credibility is in dispute and relevant to one or more of the allegations, the Adjudicator may meet individually with the Parties and witnesses to question them in order to assess their credibility. These meetings will be recorded and shared with the Parties.
- x At their discretion, the Adjudicator may also meet with any party or witness to ask additional relevant questions that will aid the Adjudicator in making a decision.

Appeal Process

Both parties an appeal in writing, the determination as well as earlier dismissal of a Formal Complaint or any allegations therein, within 5 business days

In the event that an appeal is filed to contest the dismissal of a Formal Complaint or any allegations therein, the Appeal Panel or appropriate officials may uphold the dismissal or direct the reinstatement of the Formal Complaint or one or more allegations therein.

XIV. Liability Information for Employees

Skidmore College provides liability protection for employees for their work on behalf of the College,

