PROHIBITION OF DISCRIMINATION, HARASSMENT, AND RETALIATION

I. Policy and Definitions

PURPOSE AND SCOPE OF THE POLICY

Albany Law School (“Albany Law” or the “Law School”) strictly prohibits discrimination and harassment because of race, creed, color, gender, gender identity, gender expression, ethnicity, national origin, religion, marital status, familial status, pregnancy, age, sexual orientation, military or veteran status, disability, genetic predisposition status, domestic violence victim status, and any other category protected by applicable federal, state, or local law. Albany Law also prohibits retaliation in any form against any individual who opposes a discriminatory practice, makes a good faith complaint of harassment, and/or furnishes information or otherwise participates in an investigation of any such allegations, regardless of the outcome.

All members of the campus community are responsible for preventing discrimination, harassment, and retaliation. This policy extends to all Albany Law faculty, staff and visitors of the Law School’s facilities, and individuals attending Law School sponsored programs or events. Albany Law will not tolerate any such discrimination, harassment, or retaliation, and the commission of any such conduct by an Albany Law employee will result in appropriate disciplinary action, up to, and including termination of employment.

Complaints of discrimination, harassment, or retaliation made by a Law School student against a faculty member or staff member of the Law School will be investigated and resolved through this policy. Complaints of discrimination, harassment, or retaliation made by a faculty member or staff member against a Law School student will be resolved through the procedures set forth in the Albany Law School Student Policy on Harassment, Sexual Assault & Relationship Violence.

DEFINITIONS

DISCRIMINATION

Discrimination is defined as any distinction, preference, advantage for, or detriment to an individual compared to others that is based on an individual's actual or perceived race, creed, color, gender, gender identity, gender expression, ethnicity, national origin, religion, marital status, familial status, pregnancy, age, sexual orientation, military or veteran status, disability, genetic predisposition status, domestic violence victim status, or any other category protected by applicable federal, state, or local law, that adversely affects a term or condition of an individual's employment, education, living environment, or participation in a Law School activity, or is used as the basis for or factor in decisions affecting that individual's employment, education, living environment, or participation in a Law School activity.
**SEXUAL HARASSMENT:**

Sexual harassment is defined as any unwanted sexual advances, requests for sexual favors, or visual, verbal, or physical conduct of a sexual nature when:

1. Submission to the conduct is made a term or condition of employment or educational opportunity;
2. Submission to or rejection of the conduct is used as a basis for decisions affecting the individual; or
3. The conduct has the purpose or effect of unreasonably interfering with the employee’s or student’s work or academic performance or creating an intimidating, hostile, or offensive working or educational environment.

This definition includes many forms of offensive behavior, including, but not limited to:

1. Unwanted sexual advances;
2. Offering employment or academic benefits in exchange for sexual favors;
3. Making or threatening reprisals after a negative response to sexual advances;
4. Visual conduct such as leering, making sexual gestures, or displaying sexually suggestive objects, pictures, cartoons, or posters;
5. Verbal conduct such as making or using derogatory comments, epithets, slurs, sexually explicit jokes, or comments about any employee’s or student’s body or dress;
6. Verbal sexual advances or propositions;
7. Verbal abuse of a sexual nature, graphic verbal commentary about an individual’s body, sexually degrading words to describe an individual, or suggestive or obscene letters, notes, or invitations;
8. Physical conduct such as touching, assault, or impeding or blocking movements; or
9. Retaliation for reporting harassment, threatening to report harassment, or participating in an investigation involving allegations of harassment, or sex or gender-based misconduct, regardless of the outcome.

It is unlawful for males to sexually harass females or other males, and for females to sexually harass males or other females. Sexual harassment is unlawful whether it involves coworker harassment, harassment by a supervisor, harassment by a student, harassment by a faculty member, harassment by a staff member, or harassment by persons doing business with or for Albany Law.

In addition, it is important to recognize that sexual harassment may be injurious to a third party when that person is negatively affected by unwelcome or welcome sexual conduct between other individuals in that third party’s workspace or classroom—or any
other setting that requires an employee or student to be present for purposes of work or learning.

**DISCRIMINATORY HARASSMENT:**

Discriminatory harassment is defined as unwelcomed verbal or physical conduct based on an individual’s race, creed, color, gender, gender identity, gender expression, ethnicity, national origin, religion, marital status, familial status, pregnancy, age, sexual orientation, military or veteran status, disability, genetic predisposition status, domestic violence victim status, and any other category protected by applicable federal, state, or local law, when:

1. Such conduct has the purpose or effect of creating an intimidating, hostile, or offensive working or academic environment; degrades, humiliates, or denies a person or persons the full and free exercise of their rights or privileges; or unreasonably interferes with an individual’s work performance or the progress of the individual’s education;
2. The acquiescing to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment or academic advancement, or
3. The acquiescing to or resisting of such conduct by an individual is used as the basis for employment or academic decisions affecting such an individual.

Discriminatory harassment also includes any harassment toward someone on the basis of that person’s race, creed, color, gender, gender identity, gender expression, ethnicity, national origin, religion, marital status, familial status, pregnancy, age, sexual orientation, military or veteran status, disability, genetic predisposition status, domestic violence victim status, and any other category protected by applicable federal, state, or local law.

Examples of discriminatory harassment include, but are not limited to:

1. Verbal conduct such as threats, epithets, derogatory comments, or slurs;
2. Visual conduct such as derogatory posters, photographs, cartoons, drawings, or gestures;
3. Physical conduct such as assault, unwanted touching, or blocking normal movement; or
4. Retaliation for reporting harassment, threatening to report harassment, or participating in an investigation involving allegations of harassment, or sex or gender-based misconduct, regardless of the outcome.

**RETALIATION:**

Albany Law will not retaliate and forbids retaliation against any employee who opposes a discriminatory practice, makes a good faith complaint of discrimination, including a
complaint of harassment, or furnishes information or participates in any manner in an investigation of such a complaint. Retaliation includes any conduct, whether or not workplace or employment-related, directed at someone because he/she made such a complaint or participated in such an investigation, which might deter a reasonable person from making or supporting a charge of discrimination or harassment. Employees who commit retaliatory actions will face disciplinary action, up to and including termination of employment.

Any person who believes he or she has been the victim of retaliation should report the matter immediately to a Member of the Harassment Committee. Any other Albany Law employee to whom a report is made or who otherwise becomes aware of a violation of this policy is expected to promptly report such violation to a member of the Harassment Committee.

II. Expectations With Respect to Consensual Sexual Relationships

Sexual relationships between faculty and students and staff and students are problematic due to the inherent power differential. Therefore, sexual or romantic relationships between faculty and students and between staff and students are absolutely prohibited. Similarly, sexual or romantic relationships between a supervisor or manager and any person with lesser authority within the chain of command are absolutely prohibited.

III. Expectation With Respect to Violations of the Law School’s Student Policy on Harassment, Sexual Assault & Relationship Violence

All employees are expected to review and must familiarize themselves with the Law School’s Student Policy on Harassment, Sexual Assault & Relationship Violence. Unless you are designated to be a Confidential Resource, employees who learn of any information that may be considered a violation of the Law School’s Student Policy on Harassment, Sexual Assault & Relationship Violence policy are expected to report this information immediately to the Law School’s Director of Human Resources or Title IX Coordinator.

IV. Procedures for Handling Complaints of Harassment/Discrimination

Section 1: HARASSMENT COMMITTEE

(a) The Harassment Committee shall be composed of three faculty members and four staff members. The Title IX Coordinator and Director of Human Resources are permanent staff appointments to the Committee. All other members are appointed by the President and Dean and serve term appointments. The Title IX Coordinator will call the first meeting in the fall of each academic year at which the Committee will select a Chair who will serve for that year.
(b) Members of the Harassment Committee shall receive annual training with respect to this policy, the procedures under this policy, and current legal issues regarding harassment. The Title IX Coordinator shall arrange for this training in the fall of each year.

(c) Committee members shall serve three-year terms. See Appendix A for a list of current Committee members.

(d) The members of the Committee will treat each complaint confidentially; information obtained from the complainant will not be discussed with other personnel except as necessary to investigate and resolve the complaint.

(e) Notwithstanding the foregoing, the Chair of the Harassment Committee will notify the President and Dean, Chair of the Board of Trustees, and Vice President for Finance and Business of any complaint of harassment or allegation that suggests that a violation of this policy has occurred, when it becomes known to the Harassment Committee or any member thereof. If the allegation involves any of the parties listed previously, notification may be made to the Chair of the Audit Committee of the Board of Trustees. The Vice President for Finance and Business, President and Dean and Chair of the Board of Trustees shall not be involved with the processing of any complaint that may be made or filed and shall consider any information received as confidential, except that the Chair, at his or her discretion, may consult with the Executive Committee of the Board of Trustees regarding the complaint and take steps necessary to protect the interest of the Law School.

(f) The Title IX Coordinator is charged with educating the Law School Community about harassment and this policy.

Section 2: INITIATING A COMPLAINT

(a) A complainant is encouraged to promptly report any harassment to a member of the Harassment Committee. All members of the Law School community who are aware of instances of harassment prohibited by this policy are expected to report them to a Harassment Committee member.

(b) The Harassment Committee member to whom the complaint is brought or referred, will counsel the complainant as to the options available under this policy and may at the complainant's request, (i) help the complainant resolve the complaint informally and/or (ii) help the complainant draft a written formal complaint.

(c) Upon receipt of a complaint, the Harassment Committee member will also determine whether the complaint falls within the purview of the Law School's Student Policy on Harassment, Sexual Assault & Relationship Violence. Complaints falling within the purview of that policy will be referred to the Title IX Coordinator for proper action.
(d) In the event the initial complaint is presented to the President and Dean, the matter shall be referred by the President and Dean to a Harassment Committee member for further action.

Section 3: INVESTIGATION

(a) After receiving a formal complaint of a violation of this policy or information that suggests that a violation of this policy may have occurred, the Harassment Committee will conduct an investigation. The purpose of the investigation is to establish whether there is a reasonable basis for believing that the alleged violation of this policy has occurred. In conducting the investigation, the Harassment Committee or its designated investigator may interview the Complainant, the accused, and other persons believed to have pertinent factual knowledge. Unless more time is required, the investigation will be completed and the Harassment Committee will prepare a written report of the investigation and its conclusions within 30 calendar days after receipt of a complaint. The complainant will be notified if there is a need for an extension of time to complete the investigation. At all times, the Harassment Committee or its designated investigator conducting the investigation will take steps to ensure confidentiality.

(b) In those instances when a complainant does not wish to initiate an investigation, but provides information that suggests that a violation of this policy may have occurred, the Harassment Committee will take appropriate steps to determine whether a violation has occurred, and, if it determines that a violation has occurred, the Harassment Committee will take appropriate corrective action.

(c) The conclusion of the investigation may result in any of the following possible outcomes:

1. a negotiated resolution;
2. a conclusion that the allegations are not warranted;
3. a recommendation for formal action described in Section 4 of this policy;
   a. if the complaint is against student, a referral to the Associate Dean for Student Affairs with a recommendation for further proceedings under the Student Disciplinary Rules;
   b. if the complaint is against a faculty member, a referral to the President and Dean;
   c. if the complaint is against a staff member, a referral to the Vice President for Finance and Business or Director of Human Resources;
   d. a referral to any other appropriate Albany Law School authority for further proceedings under any other applicable rules; and
   e. any other recommendation deemed appropriate by the Committee.

Section 4: FORMAL ACTION
(a) If after reviewing the report of investigation there is a reasonable basis for believing that the alleged violation of this policy has occurred, and a negotiated resolution cannot be reached, the Harassment Committee will recommend to the President and Dean that formal action be taken.

(b) The decision to take formal action, and any formal action, will be determined in accordance with appropriate procedures under faculty, staff, or student rules.

(c) In addition to procedures governing panel hearings under faculty or student rules, upon motion from the complainant or the accused, made before or after the start of the hearing process, the hearing panel shall close all or part of any hearing held in connection with a harassment complaint.

Section 5: PROTECTION OF THE PARTIES

(a) The complainant and accused will be informed of significant steps taken during the investigation.

(b) As noted above, Albany Law School strictly prohibits retaliation of any kind against any person who opposes a discriminatory practice, makes a good faith complaint about harassment and/or discrimination, or furnishes information or participates in any manner in an investigation of such a complaint.

Retaliation includes any conduct, whether or not workplace or employment-related, directed at someone (or their family) because he or she has made a complaint of discrimination or participated in such an investigation, which might deter a reasonable worker from making or supporting a charge of harassment or discrimination in the future.

The Law School will takes all steps necessary to assure that the complainant and those participating in an investigation of harassment under this policy do not suffer retaliation as the result of their activities.

If a student, employee, or faculty member believes he/she has been subjected to retaliation, or is aware of retaliation directed at a coworker he/she is expected to report such retaliation to a member of the Harassment Committee. Upon receiving a complaint of retaliation, or information that suggests that retaliation has occurred, the Harassment Committee will conduct an appropriate investigation of the alleged conduct.

Any individual found to have engaged in retaliation will be subject to disciplinary action, up to and including termination of employment.

(c) In extraordinary circumstances, after consulting with the Executive Committee of the Board of Trustees, the President and Dean may, at any time during or after an investigation of a harassment complaint, suspend any member of the Law
School Community who has been accused of harassment from Law School activities or responsibilities, if after reviewing the allegations and interviewing the accused, the complainant, and, if appropriate, others, the Dean finds that is reasonably certain that:

(1) the alleged harassment has occurred and;

(2) serious and immediate harm will ensue if the member of the Law School Community continues to participate in Law School activities or carry out Law School responsibilities.

(d) A complainant found to have been intentionally dishonest in making an allegations of harassment or discrimination, or if found to have made such allegations maliciously, is subject to appropriate disciplinary action.

(e) To the extent possible, the investigations and proceedings will be conducted in a way calculated to protect the confidentiality interests of both parties.

(f) During interviews, the complainant or the accused has the right to be accompanied by a representative of his or her choice, at his or her own expense.

(g) Formal action should be completed within 90 days of referral by the Harassment Committee. The complainant and the accused will be informed promptly about the outcome of the proceedings.
APPENDIX A

Committee Members with Contact Information:

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Phone</th>
<th>Email</th>
<th>Room</th>
<th>Building</th>
<th>Exp. Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Melissa Breger</td>
<td>Professor of Law</td>
<td>(518)445-3325</td>
<td><a href="mailto:mbreg@albanylaw.edu">mbreg@albanylaw.edu</a></td>
<td>M201</td>
<td>1928</td>
<td>2022</td>
</tr>
<tr>
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<td><a href="mailto:awedl@albanylaw.edu">awedl@albanylaw.edu</a></td>
<td>U227</td>
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<td>2022</td>
</tr>
</tbody>
</table>

Permanent Members:

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Phone</th>
<th>Email</th>
<th>Room</th>
<th>Building</th>
<th>Exp. Date</th>
</tr>
</thead>
<tbody>
<tr>
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<td>2022</td>
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<tr>
<td>Chantelle Botticelli</td>
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<td><a href="mailto:cbott@albanylaw.edu">cbott@albanylaw.edu</a></td>
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<tr>
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</tbody>
</table>
NEW YORK STATE WORKPLACE SEXUAL HARASSMENT SUPPLEMENTAL POLICY

In compliance with New York State law, the Law School provides for the following notifications concerning workplace sexual harassment. The following does not replace - and is instead in addition to -- the Law School's Policy on Prohibition of Discrimination, Harassment and Retaliation ("Harassment Policy"), and the Law School's Student Policy on Harassment, Sexual Assault & Relationship Violence. Sexual harassment is defined in the Law School’s Harassment Policy, and the procedures for reporting, investigating and adjudicating complaints of sexual harassment are contained in the Harassment Policy.

The Law School's policies addressing sexual harassment apply to all employees. They also apply to individuals who are not employees of the Law School but are employees of contractors, subcontractors, vendors, consultants, and other persons who provide services in the Law School's workplace, such as interns and temporary employees.

Sexual harassment is a form of employee misconduct. A Law School employee who is experiencing sexual harassment or suspects that another individual is being harassed may contact his/her supervisor or department head or a member of the Law School's Harassment Committee, as outlined in the Harassment Policy. A Law School supervisor or manager who receives a complaint or information about workplace sexual harassment is required to take appropriate action. Appropriate action may include immediately intervening if harassment is witnessed by the supervisor or manager, and in all instances includes reporting the situation to the Law School's Director of Human Resources. In addition to being subject to discipline if they themselves engage in sex discrimination, sexually harassing conduct, or retaliation, persons with supervisory authority over other Law School employees will be subject to discipline for knowingly allowing sexual harassment to continue. A reporting form is provided as an attachment to this policy that employees may use, if they wish, to submit a report of workplace sexual harassment.

The Law School reserves the right to take action to correct -- including to discipline -- behaviors that violate the Law School's professional conduct expectations even if the conduct does not violate the law. Therefore, not all situations that violate Law School policy will constitute a violation of the law or allow for a legal remedy. The following agencies enforce laws prohibiting sexual harassment. An individual who has experienced sexual harassment may file a complaint with the Law School or also may file a complaint with an enforcement agency.

The New York State Division of Human Rights (DHR) enforces the Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., which prohibits sexual harassment in employment in New York State, and protects employees, and other individuals working in an employer’s workplace. A complaint alleging a violation of the Human Rights Law may be filed either with DHR, subject to a one year statute of
limitations, or in New York State Supreme Court, subject to a three year statute of limitations.

The DHR will investigate the complaint to determine if unlawful harassment occurred and if the circumstances amount to a violation of the law. If unlawful discrimination is found after a hearing, the DHR or the court may award relief, which varies, but may include requiring the employer to take action to stop the harassment, or redress the damage caused, including reversing an unlawful employment action, paying monetary damages, attorneys’ fees and civil fines.

DHR’s main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458, (718) 741-8400 www.dhr.ny.gov. The DHR can be contacted at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form and contact information for DHR’s regional offices across New York State.

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An employee must file a complaint with the EEOC within 300 days from the conduct giving rise to the complaint. The EEOC also investigates complaints, but does not hold hearings or award relief. The EEOC may take other action including pursuing cases in federal court on behalf of complaining parties, or issuing a Right to Sue Letter that allows an individual to pursue his/her claims in federal court. Federal courts may award remedies if discrimination is found to have occurred.

The EEOC can be contacted by calling 1-800-669-4000 (1-800-669-6820 (TTY)), or visiting their website at www.eeoc.gov or via email at info@eeoc.gov. If an individual files an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the individual’s right to proceed in federal court.

There may be additional applicable laws, including local laws, or agencies that address the topics covered by this policy. If the harassment involves physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. An employee who believes that a crime has been committed, or if the employee believes he/she is in physical danger, is urged to file a report with the local police department immediately.

Individuals are reminded that no one who in good-faith makes a complaint of sexual harassment or participates in an investigation into sexual harassment -- whether an internal Law School process or an external enforcement agency process -- may be retaliated against. Retaliation is against Law School policy and it is against the law.
This form is designed to assist individuals making a report under Albany Law School's (the “Law School”) policy on the Prohibition of Discrimination, Harassment, and Retaliation (the “Policy”). If you believe you are being or have been subjected to conduct in violation of the Policy, or witness or otherwise become aware of such conduct, you are expected to report such, either verbally or in writing. It is the Law School’s policy to promptly and thoroughly investigate such reports.

If you wish to make a written report, you may use this form to do so. After completing this form, you should submit it to the Director of Human Resources, Room U-226 in the 2000 Building or via e-mail to sdonn@albanylaw.edu. Alternatively, you may submit to the Title IX Coordinator, Room M208 in the 1928 Building or via e-mail to TitleIXCoordinator@albanylaw.edu. If you are more comfortable reporting verbally or in another manner, you are welcome to do so. For information concerning additional alternate avenues of reporting, please refer to the Policy.

The Law School prohibits retaliation against any individual who opposes a discrimination practice, makes a good faith report of discrimination or harassment, or who participates in an investigation of such a report. Your cooperation in truthfully completing this form and providing as much accurate information as possible will enable us to investigate and respond to these matters more efficiently.

### INFORMATION ABOUT YOU

| Name: ________________________________________________ |
| Home Address: ____________________________________________ |
| Work Address: ____________________________________________ |
| Home Phone: ____________________ Work Phone: ________________ |
| Job Title: _______________________ Email: ___________________ |

Select Preferred Communication Method: ☐ Phone ☐ Email ☐ In person

### INFORMATION ABOUT YOUR SUPERVISOR (IF APPLICABLE)

| Immediate Supervisor’s Name: ____________________________ |
| Title: __________________________________________________ |
| Work Phone: ____________________ Work Email: ________________ |
| Work Address: ____________________________________________ |
INFORMATION CONCERNING SUSPECTED POLICY VIOLATION

1. Your report concerns:

   Name: ___________________________ Title: __________________________
   Work Phone: ____________________ Work Email: _______________________
   Work Address: ____________________________________________________
   Relationship to you:  ☐ Supervisor      ☐ Subordinate      ☐ Co-Worker
                        ☐ Other: ______________________________

2. Please describe the conduct or incident(s) that is/are the basis of this report and how the conduct is affecting you and your work. Describe each act or incident separately including dates, times, locations and your reaction and/or action(s) taken in response. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

3. Why do you believe the conduct or incident(s) described above violate(s) the Policy?

4. Is the conduct continuing?   ☐ Yes   ☐ No

5. Please list the name and contact information of any witnesses or individuals that may have information related to your report:
6. Are there any documents or other evidence of the conduct or incident? If so, please describe and/or attach.

7. What is your desired outcome of the investigation?

Upon receipt of this notification, you will be contacted by a member of the Harassment Committee. Every effort will be made to assure that confidentiality will be maintained throughout the investigatory process to the extent consistent with adequate investigation and appropriate corrective action. For additional information, please refer to the Policy.

*The information provided in this report is true, accurate and complete. I am willing to cooperate fully in the investigation of this report and provide whatever evidence the Law School deems relevant.*

Signature: _________________________________  Date: ________________