

*For Students & Employees*  
**DAEMEN COLLEGE**



**Sexual Violence  
Policies &  
Procedures**





**Sexual Violence Policies & Procedures for Students and Employees**

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## **I. Bill of Rights**

In accordance with the Campus Sexual Assault Victim's Bill of Rights (1992) and section 485 of the Higher Education Act of 1965 (revised 2010), as well as guidelines provided by New York State, Daemen College (hereinafter "College" or "DC") has implemented the following bill of rights that shall be afforded to all victims of reported campus-related sexual assaults. These rights have been adapted for Daemen College from the language used in the Higher Education Act and described in more detail throughout this section.

1. The right to have any and all disclosures of domestic violence, dating violence, stalking, and sexual assault against them treated with seriousness and receive, from the institution, courteous, fair, and respectful health care and counseling services, where available.
2. The right to have sexual assaults committed against them investigated and adjudicated by the duly constituted criminal and civil authorities of the governmental entity in which the crimes occurred, if the victim so chooses, including make a report to local law enforcement and/or the state police; and the right to the full and prompt cooperation and assistance of College staff in notifying the proper authorities. The foregoing shall be in addition to any campus disciplinary proceedings.
3. The right to be free from any kind of pressure from College staff that victims:
  - a. Not report crimes committed against them to civil and criminal authorities or to campus safety and residence life staff; or
  - b. Report crimes as lesser offenses than the victims perceived them to be.
4. The right to be free from any kind of suggestion that sexual assault victims not report, or under-report, crimes because:
  - a. Victims are somehow "responsible" for the commission of crimes against them;
  - b. Victims are negligent or assumed the risk of being assaulted; or
  - c. By reporting crimes they would incur unwanted personal publicity.
5. The right to participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard and in so doing, to describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident.
6. The same right to legal assistance, or ability to have others present, including an advisor of their choice, in any campus disciplinary proceeding that the institution permits to the accused; and the right to be notified of the outcome of such proceeding.
7. The right to counseling services from any mental health services previously established by the institution, or by other victim-service entities, or by victims themselves.

8. After campus sexual assaults have been reported, the victims of such crimes shall have the right to require that appropriate College staff take the necessary steps or actions reasonably feasible to prevent any unnecessary or unwanted contact or proximity with alleged assailants, including immediate relocation of the victim to safe and secure alternative housing and transfer of classes if requested by the victims.
9. Access to at least one level of appeal of a determination.
10. The right to report any inappropriate action, or lack thereof, in the handling of a reported sexual assault on the part of the College as a Title IX complaint.
11. Be protected from retaliation by the institution, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution.
12. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or conduct process of Daemen College.

Additionally, and in accordance with the SaVE provision of the Violence Against Women Act (VAWA), the College will work with the student to ensure that the student is able to continue their studies safely while the matter is addressed. This includes applying, at the discretion of the Dean of Students (or designee) and as dictated by the situation and the needs of the victim, the use of administrative room changes, Orders of No Contact, Persona Non Grata orders, and/or other steps deemed necessary.

## II. Definitions

1. **Affirmative Consent** – a knowing, voluntary, and mutual decision among all participants to engage in “sexual activity” (as defined below). 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.
  - a. Silence or lack of resistance, in and of itself, does not demonstrate consent.
  - b. The definition of consent does not vary based upon a participant’s sex, sexual orientation, gender identity, or gender expression.
  - c. Consent may be initially given but withdrawn at any time.
  - d. When consent is withdrawn or cannot be given, sexual activity must stop.
  - e. Consent cannot be given when a person is incapacitated. Incapacitation occurs when an individual lacks the ability to fully, knowingly choose to participate in sexual activity. Incapacitation includes impairment due to drugs or alcohol (whether such use is voluntary or involuntary), the lack of consciousness or being asleep, being involuntarily restrained, if any of the parties are under the age of 17, or if an individual otherwise cannot consent.

- f. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
  - g. Depending on the degree of intoxication, someone who is under the influence of drugs, alcohol, or other intoxicants may be incapacitated and therefore unable to consent.
  - h. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
  - i. Additionally, prior consent to a sexual act does not necessarily constitute consent to any other act.
2. **Bystander/Witness** – a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of rules or policies of the College. A bystander is not a “reporting individual” (as defined below), even if the bystander brings forth a report.
3. **Complainant** – a victim, survivor, or claimant. The term reporting individual is limited to those who are directly impacted by the violation as victims. A bystander to a violation, or a third party who reports information about a violation that he or she has learned from a victim, is NOT a reporting individual
4. **Confidentiality** – is afforded to a student who speaks with a campus counselor or outside advocacy agency such as Crisis Services of Buffalo. In those instances, no identifying information is shared or reported to campus authorities unless there is an imminent risk to the safety of the student and/or campus community.
5. **Crime of Violence** – Daemen College will report the following crimes in the Annual Security and Fire Safety Report (ASR), under the Clery Act, as defined below.
- a. **Murder and Non-Negligent Manslaughter** is defined as the willful (non-negligent) killing of one human being by another.
  - b. **Negligent Manslaughter** is defined as the killing of another person through gross negligence.
  - c. **Sex Offenses-Rape** is defined as 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. This offense includes the rape of both males and females.
  - d. **Sex Offenses-Fondling** 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 his/her age or because of his/her temporary or permanent mental incapacity.

- e. Sex Offenses-Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- f. Sex Offenses-Statutory Rape is sexual intercourse with a person who is under the statutory age of consent
- g. Domestic Violence includes asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.
- h. Dating Violence means violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such a relationship will be gauged by its length, type, and frequency of interaction.
- i. Stalking means a course of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or others' safety, or to suffer substantial emotional distress. Furthermore, Daemen College defines stalking as any act, whether via phone, internet, or physical proximity, that, through unwanted and/or unsolicited viewing or communicating threatens an individual's physical or emotional safety.
- j. Robbery is the taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.
- k. Aggravated Assault is an unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm.
- l. Burglary is the unlawful entry of a structure to commit a felony or a theft. The Federal Bureau of investigation's Uniform Crime Reporting Handbook (UCR) classifies offenses locally known as Burglary (any degree); unlawful entry with intent to commit a larceny or felony; breaking and entering with intent to commit a larceny; housebreaking; safecracking; and all attempts at these offenses as Burglary.
- m. Motor Vehicle Theft is the theft or attempted theft of a motor vehicle and does not include theft or attempted theft from a motor vehicle.
- n. Arson is any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.
- o. Arrest, for Clery Act purposes, is defined as persons processed by arrest, citation or summons.

- p. Illegal Weapons Possession is defined as the violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices or other deadly weapons. This classification encompasses weapons offenses that are regulatory in nature. Included in this classification: manufacture, sale, or possession of deadly weapons; carrying deadly weapons, concealed or openly; using, manufacturing, etc., of silencers; furnishing deadly weapons to minors; aliens possessing deadly weapons; and attempts to commit any of the above.
  - q. Drug Law Violations is defined as the violation of laws prohibiting the production, distribution and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation or importation of any controlled drug or narcotic substance. Arrests for violations of state and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing and making of narcotic drugs. The relevant substances include: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics-manufactured narcotics which can cause true addiction (Demerol, methadone); and dangerous nonnarcotic drugs (barbiturates, Benzedrine).
  - r. Liquor Law Violations is defined as the violation of state or local laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, or use of alcoholic beverages, not including driving under the influence and drunkenness. Include in this classification: the manufacture, sale, transporting, furnishing, possessing, etc., of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating still; furnishing liquor to a minor or intemperate person; underage possession; using a vehicle for illegal transportation of liquor; drinking on train or public conveyance; and attempts to commit any of the above.
6. **Domestic Violence** under New York law, is generally defined as a pattern of coercive tactics, which can include physical, psychological, sexual, economic and emotional abuse, perpetrated by one person against an adult intimate partner, with the goal of establishing and maintaining power and control over the victim. There is no specific crime of “domestic violence” under New York State law. Domestic violence is handled through the criminal courts and the Family Court as a “family offense.” A family offense is defined as certain acts/crimes delineated in the Penal Law (such as harassment, menacing, assault, and stalking) committed by a family member (individuals who are married, related by blood, or who have a child in common). Victims who meet this definition may go to criminal court to seek an order of protection and have the abuser prosecuted, or they may go to Family Court for an order of protection, services, and assistance with custody and child support. Individuals victimized by an intimate partner who does not meet the definition of family member, such as a boyfriend or same-sex partner, can only go to criminal court for legal assistance. In addition, mandatory arrest, which applies when an abuser violates an order of protection or commits certain other offenses, is only applicable when a case involves individuals who meet the family definition. According to the NYS Office for the Prevention of Domestic Violence, however, many police departments in New York State use an

expanded definition of family when making mandatory arrest determinations. This provides greater protection to victims who fall outside of the family definition, although these victims still do not have access to Family Court.

Under Daemen College's Code of Conduct, Domestic Violence is defined as a felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner, a cohabiting partner, or another person with whom the victim shares a child.

7. **Nonconsensual Sexual Activity** – occurs when “sexual activity” (as defined below) is perpetrated against a victim without his or her “affirmative consent” (as defined above).
8. **Privacy** – may be offered by an individual when such an individual is unable to offer confidentiality under the law but shall still not disclose information learned from a reporting individual or bystander to a crime or incident more than necessary to comply with applicable laws, including informing appropriate College Officials. The College has identified the following positions as Campus Security Authorities (CSA) under the Clery Act and Responsible Persons under Title IX:

Title	Name	Email
<b>President &amp; Cabinet</b>		
President	Gary Olson	golson@daemen.edu
Vice President for Business Affairs & Treasurer	Robert Rood	rrood@daemen.edu
Senior Vice President for Academic Affairs & Dean of the College	Michael Brogan	mbrogan@daemen.edu
Vice President for Institutional Advancement	Emily Burns Perryman	eperryma@daemen.edu
Vice President for Strategic Initiatives	Greg Naylor	gnaylor@daemen.edu
Vice President of IT and Chief Information Officer	Melaine Kenyon	mkenyon@daemen.edu
Director of Athletics	Traci Murphy	tmurphy@daemen.edu
Chief Diversity Officer & Director of HEOP	Tiffany Hamilton	thamilto@daemen.edu
Chief of Staff - President	Amanda Gross	agross@daemen.edu
<b>Campus Safety</b>		
Assistant Dean - Campus Safety & Operations	Bob Mead-Colegrove	rmeadcol@daemen.edu
Director of Campus Safety	Doug Smith	dsmith@daemen.edu
Shift Supervisor	Kevin Askey	kaskey@daemen.edu
Shift Supervisor	James Lewis	jlewis3@daemen.edu
Shift Supervisor	Jose Medina	jmedina@daemen.edu
Shift Supervisor	Megan Herriven	mherrive@daemen.edu
Officers	various	-
Clery Coordinator	Bob Mead-Colegrove	rmeadcol@daemen.edu
<b>Dean of Students</b>		



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Assistant Vice President for Student Affairs & Dean of Students	Kerry Spicer	kspicer@daemen.edu
Director of Community Standards & Student Advocacy	Miguel Rodriguez	mrodrig1@daemen.edu
<b>Student Activities</b>		
Director of Student Activities	Heather Maclin	hmaclin@daemen.edu
Assistant Director of Student Activities	Michael Paglicci	mpaglicc@daemen.edu
Club Advisors	various	
Academic/Honors Org Advisors	various	
Greek Advisors	various	
Student Alumni Ambassador Advisor	Kathryn Hammer	khammer@daemen.edu
<b>Housing &amp; Residence Life</b>		
Director of Housing & Residence Life	Emilee Yormick	eyormick@daemen.edu
Coordinator of Residence Life & Career Services	Ian James	ijames@daemen.edu
Graduate Assistant	Shania Tyson	shania.tyson@daemen.edu
RAs	Various	
<b>Student Engagement &amp; Orientation</b>		
Assistant Dean for Student Engagement	Kimberly Pagano	kpagano@daemen.edu
<b>Title IX</b>		
Title IX Coordinator	Tiffany Hamilton	thamilto@daemen.edu
<b>Counseling Health Insurance Prevention (CHIP) Center</b>		
Director of the CHIP Center	Ashley Frazier	afrazier@daemen.edu
<b>Student Success Center</b>		
Assistant Vice President for Student Success	Sabrina Fennell	sfennell@daemen.edu
Associate Director of Academic Advisement	Alyssa Crofts	acrofts@daemen.edu
Learning Center Director	Lindsay R. Masters	lmasters@daemen.edu
Director of Disability Services	Deborah Dimitrovski	ddimitro@daemen.edu
Vision for Success Coordinator	Bea Slick	bslick@daemen.edu
<b>HEOP</b>		
Chief Diversity Officer & Director of HEOP	Tiffany Hamilton	thamilto@daemen.edu
Assistant Director of HEOP	Eann Robinson	erobinso@daemen.edu
<b>Employee Engagement</b>		
Director of Employee Engagement	Tracy Masse-Wells	tmasse@daemen.edu
<b>Dining Services</b>		
Dining Services Director	Ryan Richardson	rrichard@daemen.edu
Assistant Director	Alison Princess	aprinces@daemen.edu
Catering Manager	Sue Hynes	shynes@daemen.edu
Retail Manager	Lisa Mendolera	lmendole@daemen.edu
Executive Chef	Bob Ruiz	rruiz@daemen.edu
<b>Experiential Learning Management</b>		

Updated: 9/2/21

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Director Career Services	Lamark Shaw	lshaw2@daemen.edu
Director of Paul A Saffrin Center for Sustainability & Civic Engagement	Adriane Z. Williams	awilliam@daemen.edu
Executive Director of Global Programs	Ann Robinson	arobinso@daemen.edu
<b>Education Programs &amp; Brooklyn Campus</b>		
Executive Director for Education Programs	Tara Kaczorowski	tkaczoro@daemen.edu
Education Dept. Chair / Brooklyn Campus	Sarah Avzton	
Coordinator Alt. Cert. Special Education / Brooklyn Program	Phyllis Shroot	pshroot@verizon.net
<b>Athletics</b>		
Head Cheerleading Coach	Aichinger, Brianna	baiching@daemen.edu
Head Coach of Women's Volleyball / Assistant Athletics Director for Administration	Albano, Stephanie	salbano@daemen.edu
Assistant Coach Men's & Women's Cross Country/Track & Field	Arlington, Judy	jarlingt@daemen.edu
Head Coach of Women's Basketball	Banker, Jenepher	jbanker@daemen.edu
Assistant Women's Basketball Coach	Banker, Kallie	mbanker@daemen.edu
Assistant Women's Volleyball Coach	Braun, Andrew	Braun941@gmail.com
Graduate Assistant Men's Soccer Coach	Buchanan, Craig	craig.buchanan@daemen.edu
Assistant Athletic Director for Compliance	Chasey, Steve	schasey@daemen.edu
Assistant Athletic Trainer	Copolo-Ziemer, Michelle	mcopolo@daemen.edu
Assistant Track Coach	Cukierski, Jason	jcukiers@daemen.edu
Student-Athlete Success and Community Engagement Coordinator/CAUSE Program Coordinator	Dietrich, Hailey	hdietrich@daemen.edu
Head Coach of Women's Soccer	Dolan, Dan	ddolan@daemen.edu
Strength & Conditioning Coordinator/AWC Manager	Eschner, Katie	keschner@daemen.edu
Assistant Track & Field Coach	Fuentes, Maggie	mneedham@daemen.edu
Head Men's Volleyball Coach/ Assistant Coach of Women's Volleyball	Gleason, Don	dgleason@daemen.edu
Operations Assistant/Assistant Men's Basketball Coach	Grandits, Ryan	Ryan.grandits@daemen.edu
Head Cross Country/Track & Field Coach	Gratien, Pete	pgratien@daemen.edu
Assistant Track & Field Coach	Gratien, Kelsey	krgratien@gmail.com
Head Tennis Coach	Greco Jr, Richard	rgreco@daemen.edu
Graduate Assistant Athletics Communications	Kraus, Joe	joseph.kraus@daemen.edu
Graduate Assistant Men's and Women's Volleyball Coach	Irizarry, Eli	eli.irizarry@daemen.edu

Updated: 9/2/21

Senior Associate Athletics Director for External Relations/Head Men's Basketball Coach	MacDonald, Mike	mmacdonald@daemen.edu
Head Women's Triathlon Coach	Metz, Jon	jmetz@daemen.edu
Senior Associate Athletics Director for Operations & Communications	Miranto, Mike	mmiranto@daemen.edu
Assistant Athletic Trainer	Morris, Zachary	zmorris@daemen.edu
Director of Athletics	Murphy, Traci	tmurphy@daemen.edu
Assistant Women's Soccer Coach	Panaro, Dan	dpanaro@daemen.edu
Operations Graduate Assistant	Panis, Killian	killian.Panis@daemen.edu
Assistant Men's Volleyball Coach	Przybyl, Darek	dprzybyl@daemen.edu
Head Women's Bowling Coach	Racsumberger, Carrie	cracsumb@daemen.edu
Assistant Women's Triathlon Coach	Redding, Jenny	
Senior Woman Administrator	Roehling, Karen	kroehlin@daemen.edu
Head eSports Coach	Ryan, Patrick	pryan@daemen.edu
Assistant Athletics Director for Sports Medicine & Performance	Sage, Jeff	jsage@daemen.edu
Director of Athletic Operations & Communications	Schultz, Alexis	awayne@daemen.edu
Head Coach of Men's Soccer	Swan, Bediako	bswan@daemen.edu
Faculty-Athletics Representative	Telford, Kevin	ktelford@daemen.edu
Graduate Assistant Tennis Coach	TBA	
Assistant Women's Bowling Coach	TBA	
Graduate Assistant Women's Soccer Coach	TBA	

Although most Daemen College employees are not confidential resources, they can still offer “privacy.” This means that an employee may have to share information pursuant to federal or state law or college policy with certain other Daemen employees, but they will not share the private information beyond what is required or needed to comply with law and policy, and will otherwise limit re-disclosure as much as possible.

Privacy of the records specific to the investigation is maintained in accordance with New York State law and, with respect to student records, the federal Family Educational Rights and Privacy Act of 1974 (FERPA) statute. Any public release of information to comply with the timely warning provisions of the Jeanne Clery Act (Clery Act) will not release the names of victims or information that could easily lead to a victim's identification.

In an effort to provide timely notice to the Daemen College community, and in the event of a serious incident which may pose an ongoing threat to members of the Daemen College community, a Safety and Security Alert is sent to all students and employees on campus. Incidents of aggravated assault and sex offenses are considered on a case-by-case basis, depending on the facts of the case and whether there is a continuing danger to the campus community.

9. **Relationship/Dating Violence** – Generally, relationship/dating violence is a pattern of coercive behaviors that serve to exercise control and power in an intimate relationship. The

coercive and abusive behaviors can be physical, sexual, psychological, verbal and/or emotional in nature. Intimate partner abuse can occur in relationships of the same or different genders; between current or former intimate partners who have dated, lived together, or been married. Relationship/Dating Violence includes both domestic violence and dating violence.

10. **Respondent** – a person accused of a violation who has not yet entered Daemen College’s Conduct Review process
11. **Sexual Activity** – has the same meaning as “sexual act” and “sexual contact” as provided in 18 U.S.C. § 2246(2) and 18 U.S.C. § 2246(3). Therefore, the term “sexual activity” includes the following:
  - a. contact between the penis and the vulva or the penis and the anus, and for purposes of this definition contact involving the penis occurs upon penetration, however slight;
  - b. contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
  - c. the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;
  - d. the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or
  - e. the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

Individuals must obtain affirmative consent (as defined above) prior to engaging in any of the activities referenced above.

12. **Sexual Assault/Rape** – an offense that meets the definition of rape, sodomy, sexual assault with an object, fondling, incest, or statutory rape as used in the FBI’s UCR program, these terms are defined as follows:
  - a. **Rape** – 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.
  - b. **Fondling** – the touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person’s will; or, not forcibly or against the person’s will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.



- c. Incest – sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- d. Statutory Rape – sexual intercourse with a person who is under the statutory age of consent. Under New York law, the age of consent is 17 years old. See New York State Penal Law Article 130.
  - a. Under New York law, “sexual assault” includes any and all “sexual offenses” defined in New York State Penal Code Article 130. These sexual offenses include sexual misconduct, rape, sexual abuse, forcible touching, and aggravated sexual contact, and involve conduct that would generally fall within the above-listed definitions. However, these offenses also cover certain actions, such as sexual assault with an object, which may not be included within the above-listed definitions. Students and employees are encouraged to review the full definitions and elements of these offenses, which can be found in New York State Penal Law §§ 130.00 to 130.96.
- 13. Sexual Offense – a term used by Daemen College in this policy, which includes any incident of “sexual assault,” “nonconsensual sexual activity,” “relationship violence,” and/or “stalking,” as those terms are defined in this policy.
- 14. Stalking – under Daemen College’s policies, the term “stalking” includes stalking as defined under federal and/or state law. Generally, stalking is a pattern of behavior that can include, but not limited to
  - a. Repeatedly leaving or sending victim unwanted items, presents, flowers
  - b. Harassing the victim through the internet, including social networking websites
  - c. Repeated, unwanted and intrusive phone calls, e-mails or text messages; especially after being clearly informed to stop
  - d. Damaging or threatening to damage the victim’s property
  - e. Following, monitoring, surveillance of victim and/or victim’s family, friends, co-workers
  - f. Abusing or killing a pet or other animal
  - g. Crossing jurisdictions/borders to stalk/commit offenses

Under the Clery Act regulations, stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) fear for the person’s safety or the safety of others; or (b) suffer substantial emotional distress. For the purposes of this definition:

- a. “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;

- b. "reasonable person" means a reasonable person under similar circumstances and with similar identities to the victim; and
- c. "substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

b. Under New York law, a person engages in stalking when he or she intentionally, and for no legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct:

- a. is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person's immediate family or a third party with whom such person is acquainted; or
- b. causes material harm to the mental or emotional health of such person, where such conduct consists of following (including unauthorized tracking of someone's movements or location through a GPS or other device), telephoning or initiating communication or contact with such person, a member of such person's immediate family or a third party with whom such person is acquainted, and the actor was previously clearly informed to cease that conduct; or
- c. is likely to cause such person to reasonably fear that his or her employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person's place of employment or business, and the actor was previously clearly informed to cease that conduct.

More detailed definitions can be found in New York State Penal Law §§ 120.45 to 120.60.

2. **Title IX Coordinator** – Daemen College has designated Tiffany Hamilton, the College's Chief Diversity Officer, as its Title IX Coordinator. Ms. Hamilton can be contacted at: [thamilto@daemen.edu](mailto:thamilto@daemen.edu) or (716) 839-8249. The Title IX coordinator's responsibilities include coordinating Daemen's compliance with Title IX, and other applicable nondiscrimination laws and regulations. This includes coordinating the College's grievance procedures for resolving Title IX complaints. The Title IX Coordinator, and designees (if any), receive annual training on: (1) issues related to sexual assault, relationship violence, and stalking, (2) how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability, (3) how to conduct investigations of sexual violence, (4) the effects of trauma, (5) impartiality, (6) the rights of the respondent, including the right to a presumption that the respondent is "not responsible" until a finding of responsibility is made, and (7) Daemen's policies and procedures, and other issues.

2. Additionally, the College has appointed deputy Title IX Coordinators in the areas of Student Affairs, Athletics, and Employee Engagement. The Deputy Title IX Coordinator in Student Affairs (Kerry Spicer, [kspicer@daemen.edu](mailto:kspicer@daemen.edu), 716-839-8208) is typically responsible for coordinating responses to reported student violations of the sexual assault policy.

## **II. Prohibited Acts**

Daemen College strictly prohibits all Sexual Offenses as outlined in these policies and procedures. In the event that a Sexual Offense does occur, the College takes the matter very seriously.

Daemen's Sexual Offense Policies & Procedures are available to all students and employees, and are applicable to any conduct that has a reasonable connection to the College. Daemen will apply the provisions of this policy regardless of whether the Sexual Offense occurs on campus, off campus, or while a student or employee is participating in a study abroad program. When the Sexual Offense involves students or employees from two or more institutions, the College will work collaboratively with the other institutions to address the Sexual Offense, provided that the collaboration complies with the Family Educational Rights Privacy Act ("FERPA").

1. Jurisdiction of the College Conduct System. The College Conduct System will hear complaints concerning student violations of College policy or regulations whenever the conduct in question occurs in any of the following circumstances:
  - a. If it occurs on the campus or in any College facility;
  - b. If it occurs while the student who is charged was attending or participating in any College-related activity, including but not necessarily limited to study abroad, field trip, experiential learning of any kind (including internships, clinical placements, and service learning), social event, activity sponsored by a recognized student organization; or
  - c. If the conduct, whenever and wherever it occurs, including via online media, calls into question the student's suitability as a member of the College community.

## **III. Non-discrimination**

Daemen College is committed to compliance with its obligations under Title IX of the Educational Amendments of 1972, Titles VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Age Discrimination in Employment Act, Executive orders, the New York State Human Rights Law, and other applicable antidiscrimination laws. It is the policy of Daemen College to provide all students and applicants an equal access to all programs and facilities without regard to sex, sexual orientation, gender, race, color, creed, religion, veteran or military status, national origin, age, disability, familial status, marital status, domestic violence victim status, status as an ex-offender, arrest record, predisposing genetic characteristics or genetic information, or any other characteristic protected by federal or New York State Law. Furthermore, the College will not discriminate against any individual with respect to the application of College policies, or the criteria for the successful completion of any course or program

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based on the statuses outlined above. Every person in the Daemen College community is required to be familiar with and act in accordance with this policy. This includes administrators, faculty, staff, students, contractors, and vendors. All violations of this policy will be addressed and, where appropriate, discipline will be administered. Any person or entity found in willful violation of this non-discrimination policy shall be subject to termination, expulsion or contract termination as appropriate.

The College President has assigned day-to-day responsibilities for the implementation and administration of this policy to the Chief Diversity Officer, who serves as the College's Equal Opportunity and Affirmative Action Officer. Any questions concerning this policy and any complaints of discrimination should be communicated to the EOAA Officer, Duns Scotus, Room 118, 716-839-8249.

A student also has the right to file a complaint of discrimination with the Office for Civil Rights (OCR) of the U.S. Department of Education. Complaints are to be filed within 180 calendar days of the alleged act of discrimination and may be made to the New York regional office of OCR:

New York Office  
Office for Civil Rights  
U.S. Department of Education  
32 Old Slip, 26<sup>th</sup> Floor  
New York, NY 10005-2500  
Telephone: 646-428-3900  
Fax: 646-428-3843; TDD: 877-521-2172  
Email: [OCR.NewYork@ed.gov](mailto:OCR.NewYork@ed.gov)

#### **IV. Procedure for Responding to a Sexual Offense**

Student who believe that they are a survivor of a Sexual Violence Offense, should follow these procedures:

1. **Specific procedural steps survivors should take if sexually assaulted:** A student who is sexually assaulted has the right to make a report to Campus Safety, local law enforcement, and/or state police, or choose not to report. They also have the right to report the incident to Daemen College and in so doing, to be afforded immediate assistance by an appropriate official trained in interviewing victims of sexual assault; assistance will include, including any interim measures that may be indicated for their protection, as well as protection by the institution from retaliation for reporting said incident. Victims of sexual assault should go to a safe place, contact Campus Safety at 716-839-SAFE (7233), an RA, or Crisis Services of Buffalo (716-834-3131). These first responders will provide immediate assistance, including helping the student receive any medical attention that may be needed.
2. **Obtain medical attention.** For student's safety and well-being, immediate medical attention is encouraged. Further, being examined as soon as possible is important in the case of sexual assault. Within 96 hours of an assault, a student can get a Sexual Assault Forensic Examination (or "SAFE," commonly referred to as a rape kit) at a hospital. Daemen encourages students to receive immediate medical attention at a facility that uses SAFE, or Sexual Assault Forensic Examiners. Completing a SAFE will not require the



student to file a police report, but it will help to preserve evidence in case the student decides at a later date to file a police report. Local hospitals, with and without SAFE, include the following:

Program/ Entity	SAFE Facility?	Location	Contact Information
Millard Fillmore Suburban Hospital	Yes	1540 Maple Road Williamsville, NY 14221	P: 716-568-3600
Buffalo General Hospital	Yes	100 High Street Buffalo, NY 14203	P: 716-748-2100
Sisters of Charity Hospital	Yes	2157 Main Street Buffalo, NY 14214	P: 716-862-1000

While there should be no charge from these hospitals for a rape kit, there may be charges for medical or counseling services off campus and, in some cases, insurance may be billed for services. You are encouraged to let hospital personnel know if you do not want your insurance policyholder to be notified about your access to these services.

3. **Support for complainant.** Students who are survivors of assault or harassment, including incidents that are sexual in nature, have the availability of several resources both on and off-campus, including 24/7 access to an Administrator On-Call (AOC) who is trained to specifically address these matters. Information will be provided as needed on resources for mental health counseling, medical services (including information on sexually transmitted infections and forensic examinations), legal services and any other pertinent campus or community resources. Student Affairs can work with survivors to implement persona non grata or no contact orders, manage resident hall and/or class conflicts, and similar measures as needed.

3. The College has partnered with *Reach Out Editions* to provide an app available for iPhone and Android users. *Reach Out* allows users to anonymously explore College policies, College and local support services, local medical services, reporting options and other important information that a survivor, respondent, or family member may need.

4. Additionally, Crisis Services of Buffalo provides support in the event a student is sexually assaulted. Students can also contact any of the offices or agencies below for additional support and assistance.

#### Support Agencies and College Offices:

#### Phone

Campus Safety	716-839-SAFE (7233)
Crisis Services – Victims advocate program	716-834-3131
Crime Victims Board	716-847-7992
Campus Student Counseling Services	716-839-7380
Health & Insurance Services	716-839-7380
Residence Life Staff	716-839-8200
Dean of Students	716-839-8519



Title IX Coordinator  
Vice President for Strategic Initiatives

716-839-8249  
716-839-8519

**Enforcement Agencies:**

Amherst Police/Buffalo Police  
Erie County Sheriff/Dept. of Family Offence Unit  
Erie County District Attorney/Special Victim's Bureau  
New York State Domestic and Sexual Violence Hotline  
(anonymous and confidential)  
New York State Police 24-Hour Hotline  
(sexual assault victims unit)

**Phone**

911  
716-858-6102  
716-858-2525  
1-800-942-6906  
844-845-7269

Students who have sought and received outside protection from local authorities, such as a restraining order, should share that information with the College. The appropriate official, typically the Dean of Students (hereinafter "DOS") (or designee) will assist the student in implementing the order appropriately.

5. **Counseling Services.** Professional counselors are retained by the College to assist students who are facing concerns of an academic, adjustment to college, personal, or social nature. They help students work through their concerns to develop appropriate alternatives, actions, or solutions. This service is confidential within the limits of Informed Consent and will be discussed in the first counseling session. The first fifteen sessions are free to Daemen students and in circumstances where more are needed and as approved by the Clinical Director of Counseling and/or Dean of Students. Referrals to a number of community service agencies are also available. Students can find further information by contacting the Office of Counseling Services at 716-839-7380.

6. The New York State Office of Victim Services may also be able to assist in compensating victims/survivors for health care and counseling services, including emergency funds. More information may be found here: <https://ovs.ny.gov/sites/default/files/brochure/crime-victims-rights-ny-crime-victims.pdf>, or by calling 1-800-247-8035. Options are explained here: <https://ovs.ny.gov/help-crime-victims>.

4. **Report the incident.** Daemen College encourages, but does not require, victims, survivors, complainants, claimants, and witnesses with victim status of Sexual Offenses (reporting individuals) to report the incident to one or more of the following resources:
- a. **How to Report Criminal Offenses:** In an emergency, students should dial 911<sup>1</sup>. After the emergency is reported, Campus Safety should be called so they can support emergency responders. Community members can contact the Office of Campus Safety at 716-839-SAFE (7233), 24 hours a day, 7 days a week. All members of the campus community are encouraged to report to Campus Safety any suspicious activity or person(s) seen in parking lots or loitering around vehicles, around or in buildings, or around residency halls.

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<sup>1</sup> Please note that based on where the call is made, students may need to alert 911 that they are in Amherst.

a. In addition, a crime may be reported to the following areas:

Campus Safety	(716) 839-SAFE (7233)
Office of the Vice President & Dean of Students	(716) 839-8519
Director of Housing & Residence Life	(716) 839-8200

b. First, individuals may (but are not required to) report a Sexual Offense to local law enforcement (such as the Amherst Police Department), and/or the New York State Police for the sole purpose of documentation. Students may also (but are not required to) report it to local law enforcement and/or State Police so that they may investigate the matter and identify an offender. Students may contact local and state law enforcement as follows:

- Amherst Police Department  
Address: 500 John James Audubon Parkway, Amherst, NY 14228  
Emergencies: 911  
Non-Emergencies: (716) 689-1311  
Website:  
[http://www.amherst.ny.us/content/departments.php?dept\\_id=dept\\_16](http://www.amherst.ny.us/content/departments.php?dept_id=dept_16)
- New York State Police, Troop A  
General Address: 3331 Trooper Paul Kurdys Way, Buffalo, NY 14225  
General Phone: (716) 935-6570  
Zone 2 – Grand Island Address: 2255 Baseline Rd, Grand Island, NY 14072  
Zone 2 – Grand Island Phone: (716) 773-9651

Students who choose to contact law enforcement may have the further option to (but are not required to) pursue the case through the criminal justice system, where they will be assisted by the District Attorney's office, the local or state Police Department and the support and advocacy services of your choice.

**b.** Second, students may (but are not required to) report the Sexual Offense to Daemen College Campus Safety. Once reported to the College, it may trigger the conduct review process at Daemen which may result in the removal of the offender from the campus. It also assists Daemen in complying with Federal requirements for reporting offenses occurring on campus. Students may (but are not required to) report Sexual Offenses anonymously to Daemen College Campus Safety, preserving their privacy and only reporting the particulars of the incident. When an incident is reported to the College, either through a College official or a student, the College will review the incident to determine if a potential violation of the Student Code of Conduct occurred. If there is insufficient information from that report, the DOS (or designee) may request that an investigation occur in order to determine whether there is enough information to warrant charges and a review by a conduct review body. While an investigation occurs, by an official appointed by the DOS (or designee), interim measures may be implemented, as outlined further in this section.



- c. Third, students may also (but are not required to) report the Sexual Offense to the Title IX Coordinator.

c. When a student first discloses an incident to the appropriate staff member, they will be presented with (1) a copy of this policy, (2) a written explanation of their rights and options, whether the incident occurred on or off-campus, and (3) the following information: “You have the right to make a report to campus safety, local law enforcement, and/or state police or choose not to report; to report the incident to your institution; to be protected by the institution from retaliation for reporting an incident; and to receive assistance and resources from your institution.”

d. Students will have the right to emergency access to the Title IX Coordinator or another appropriate official who has been designated by the Title IX Coordinator to provide emergency assistance (the “Designee”). The Designee may be an official of Daemen College or an official of an off campus resource. The Title IX Coordinator or Designee will be available upon the first instance of disclosure by a complainant to provide immediate information and assistance regarding (1) options to proceed, including other reporting options; (2) where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible; and (3) the criminal justice process, including that it utilizes different standards of proof and evidence and that any questions about whether a specific incident violated the penal law should be addressed to law enforcement or to the district attorney. The Title IX Coordinator or Designee will also explain whether he or she is authorized to offer you confidentiality or privacy, and will inform you about other reporting options.

- (i) The Title IX Coordinator will generally be available for emergency access on weekdays between the hours of 8:30 AM to 4:30 PM, at the following: Tiffany Hamilton, Chief Diversity Office & Title IX Coordinator, [thamilto@daemen.edu](mailto:thamilto@daemen.edu), (716) 839-8249.
- (ii) When the Title IX Coordinator is not available, emergency access to a Designee will be available, at the following: Campus Safety, (716) 839-SAFE (7233).

*a. Daemen College will make every effort to ensure that students are asked to describe the incident to as few representatives of the College as possible, and are not required to unnecessarily repeat a description of the incident.*

d. In addition, students may confidentially disclose the Sexual Offense and obtain services from the state or local government. Students can also make an anonymous report to a confidential hotline provided by New York state agencies and not-for-profit entities. These hotlines include:

- New York State Domestic and Sexual Violence Hotline: 1-800-942-6906.
- The National Domestic Violence Hotline: 1-800-799-7233.
- The National Sexual Assault Hotline: 1-800-656-4673.
- Safe Horizon Hotlines: 800-621-4673 (domestic violence), 866-689-4357 (victims of other crimes, 1-212-227-3000 (rape & sexual assault victims).

e. Lastly, if the accused is an employee of Daemen College, students can report the Sexual Offense to Daemen College's Office of Employee Engagement, or request that another employee assist in reporting to the Office of Employee Engagement. Daemen College encourages the victims of Sexual Offenses to report the incidents, in any of the manners described above. However, again, victims are not required to report the offense to, or to seek assistance from Daemen College, law enforcement, or campus authorities. Daemen will not pressure any student or employee to disclose a crime or violation, or to participate in the conduct or criminal justice processes.

e. Reporting an incident does not:

- (i) obligate the victim to prosecute;
- (ii) subject the victim to inappropriate scrutiny or judgment by the person receiving the report; or
- (iii) suggest in any way that the victim is at fault for the crime or violation, or should have acted in a different manner to avoid the crime or violation.

a. *Reporting the incident does:*

- (iv) ensure that a victim of a Sexual Offense receives necessary medical testing and treatment;
- (v) provide the opportunity for collection of evidence critical to a prosecution, which cannot be obtained later;
- (vi) ensure that the victim has knowledge of and access to professional, confidential counseling from counselors specifically trained in the areas of Sexual Offenses.

## 5. Request to File Student Conduct Charges.

7. If the respondent is a student, students may request that Daemen College file student conduct charges against the respondent. Any member of the College community may initiate the conduct review process against any student for alleged violations of the Student Code of Conduct generally within two to three months of the alleged violation(s) by submitting a complaint in written form to the Dean of Students (DOS), who has direct responsibility for managing the student conduct system, or designee. Residence Life and Campus Safety staff complete incidents in writing through their supervisor by completing an incident report addressing a violation. Charges filed by all other members of the community must be prepared in writing and will be directed to the DOS (or designee).

8. Daemen College retains the right to determine whether to actually file the charges against the accused or respondent. Daemen can initiate charges or choose not to initiate them when evidence does or does not merit doing so, in conformity with state and federal law.

9. Students should be aware that there are significant differences between Daemen's disciplinary system and the criminal justice system, because they have different, important goals. In the criminal justice system, prosecutors pursue cases when they believe there is sufficient evidence to prove, beyond a reasonable doubt, that an individual has committed a criminal act. A person who is convicted of a crime will face criminal penalties, such as incarceration, probation, or the imposition of a fine. Daemen's disciplinary process seeks to determine whether an individual has violated college policy. In this process, a preponderance of the evidence standard of proof is used to determine responsibility. A person who is found to have violated Daemen College's policy may be suspended, expelled or otherwise restricted from full participation in the Daemen community.

## 6. Seek an Order of Protection /or No Contact Order.

- a. Orders of Protection. Victims of Sexual Offenses may have a right to obtain a court order to protect themselves from the perpetrators. The College will enforce all applicable no contact orders, restraining orders, and similar lawful orders issued by a criminal, civil, or tribunal court, to the extent required by law.

- a. An order of protection is issued by the court to limit the behavior of someone who harms or threatens to harm another person. It is used to address various types of safety issues, including, but not limited to situations involving domestic violence. Family Courts, criminal courts, and Supreme Courts can all issue orders of protection. An order of protection may direct the offending person not to injure, threaten or harass you, your family, or any other person(s) listed in the order.

- b. Family Court order of protection is issued as part of a civil proceeding. Its purpose is to stop violence within a family, or within an intimate relationship, and provide protection for those individuals affected. All Family Court proceedings are confidential. To obtain an order of protection in the Family Court, your relationship to the other person must fall into one of the following categories:

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(1) current or former spouse, (2) someone with whom you have a child in common, (3) a family member to whom you are related by blood or marriage, or (4) someone with whom you have or have had an “intimate relationship.” An intimate relationship does not have to be a sexual relationship. A relationship may be considered intimate depending on factors such as how often you see each other, or how long you have known each other. After a petition is filed, the court will decide if it is an intimate relationship.

c. In order to start a proceeding in Family Court, individuals will need to file a form called a Family Offense petition. Individuals can contact the Family Court in your county for help completing and filing the petition. Contact information for Erie County Family Court:

Erie County Family Court  
Address: 1 Niagara Square, Buffalo, NY 14202  
Phone: 716-845-7400  
Fax: 716-845-7546

Students may also wish to speak with an attorney or domestic violence advocate before filing.

A criminal court order of protection is issued as a condition of a defendant’s release and/or bail in a criminal case. A criminal court order of protection may only be issued against a person who has been charged with a crime.

Daemen College will provide complainants assistance from Campus Safety, or other appropriate officials in obtaining an order of protection. The following individuals can be contacted for assistance in obtaining or understanding an Order of Protection:

- Douglas Smith  
Director of Campus Safety  
716-839-8237  
[dsmith@daemen.edu](mailto:dsmith@daemen.edu)
- Legal Aid Bureau of Buffalo  
290 Main Street, Suite 400  
Buffalo, NY 14202  
(716) 853-9555  
[www.legalaidbuffalo.org](http://www.legalaidbuffalo.org)

Daemen will provide the respondent and the complainant a copy of any order of protection or equivalent that the College receives. Daemen will also provide the respondent and the complainant an opportunity to meet or speak with a representative of the College, 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.





Daemen College will provide the respondent and the complainant an explanation of the consequences of violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension. The College will also call on and assist local law enforcement in effecting an arrest when an individual violates an order of protection.

- b. Order of No Contact. When a student is accused of a Sexual Offense, Daemen College will generally issue a “no contact order” to protect the complainant from the respondent. This “no contact order” is a Daemen College document that does not have the legal effect of an order of protection, which is obtained through a court.

- d. Under the no contact order: (1) the respondent’s continued intentional contact with the complainant is a violation of Daemen’s policy that is subject to additional conduct charges; and (2) if the respondent and a complainant observe each other in a public place, it is the responsibility of the respondent to leave the area immediately and without directly contacting the complainant. This may include establishing a schedule of attendance for the respondent to access certain locations at Daemen, such as academic buildings, libraries, athletics or fitness facilities, and dining halls.

- e. Responsibility to stay away falls upon the person or persons subject to the no contact order (“covered person”), not the protected individual. A covered person may be a respondent or a third party who is the subject of a no contact order. If the covered person and protected person are in the same place accidentally, it is incumbent upon the covered person to remove himself or herself in a reasonable time and manner.

- f. Upon request, both the respondent and the complainant are entitled to a prompt review, reasonable under the circumstances, of the need for and terms of the mandatory no contact order, including potential modification, in which they are allowed to submit evidence in support of their requests. Requests to review a mandatory no contact order should be submitted to: Kerry L. Spicer, Dean of Students at [kspicer@daemen.edu](mailto:kspicer@daemen.edu). If a request for review is received from one party, the other party will be notified of the request for review. The Dean of Students or designee will issue a determination in response to the request, and notify both parties of the determination.

7. **Initiate Legal Proceedings.** Students may have the right to initiate legal proceedings. Daemen Colleges serves as a resource to students in initiating these proceedings. However, the College is not required to bring actions on behalf of reporting individuals, provide or pay for attorneys, or provide direct support. Local resources may be able to help you initiate legal proceedings, however. These resources may provide services with or without cost. The resources include the following:
- Legal Aid Bureau of Buffalo  
290 Main Street, Suite 400  
Buffalo, NY 14202  
(716) 853-9555  
[www.legalaidbuffalo.org](http://www.legalaidbuffalo.org)
  - Erie County Bar Association  
438 Main Street, 6<sup>th</sup> Floor  
Buffalo, NY 14202  
(716) 852-8687  
Website: [www.eriebar.org](http://www.eriebar.org)
8. **Right to Withdraw.** Students have the right to withdraw their report and/or to withdraw from involvement in Daemen's investigation of the complaint at any time. If students choose to withdraw, however, the College may still have obligations to investigate and/or take actions under state or federal law. If Daemen continues an investigation or takes action after a student withdraws, students have the right to participate as much or as little as you wish.

## V. **Policy for Alcohol and/or Drug Use Amnesty for Students**

The health and safety of every student at the College is of utmost importance. Daemen College recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence, including but not limited to domestic violence, dating violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. Daemen College strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to institution officials. A bystander acting in good faith or a complainant acting in good faith to Institution's official or law enforcement will not be subject to the Student Code of Conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

## VI. **Interim Measures Following a Report of a Sexual Offense**

1. **Interim Measures.** In certain circumstances, including those involving sexual harassment and/or assault/violence, the Dean of Students (or designee) may, upon initial assessment, impose interim administrative measures as a means to ensure the safety of all parties as well as the institution. Interim measures may include emergency removal from residence halls and/or the college pending assessment, full investigation and/or a hearing before a conduct review body. Interim measures may be imposed to:

- a. Help ensure the safety and well-being of members of the College community or presentation of College property;
- b. Help ensure the student's own physical or emotional safety and/or well-being;
- c. Help prevent disruption or interference with the normal operations of the College.

Depending on the nature of the interim measures, students may be denied access to the residence area and/or to the campus (including classes) and/or all other College activities or privileges for which the student might otherwise be eligible, as the DOS (or designee) may determine to be appropriate.

In certain circumstances, the DOS (or designee) may impose an interim residency suspension, mandated room reassignment or other restrictions prior to a hearing before a conduct review body.

Whenever interim measures are applied, a hearing convenes at the earliest possible time. The interim measure(s) may remain in effect until a final decision has been reached, including any appropriate appeals process, and/or may be modified at the discretion of the DOS (or designee).

2. **No Contact Order.** As discussed above, when the respondent is a member of the campus community, the College may issue a mandatory "no contact order" mandating that (1) any intentional contact between the parties is a violation of Daemen College's policy that is subject to additional conduct charges; and (2) if the respondent and a complainant observe each other in a public place, it is the responsibility of the respondent to leave the area immediately and without directly contacting the complainant.
3. **Emergency Removal.** If the respondent is a member of the campus community who is determined to present a continuing threat to the health and/or safety of the community, the College may implement emergency actions which could include removal from housing and/or campus

10. Upon request, Daemen College will provide the respondent and the complainant a prompt review, reasonable under the circumstances, of the need for and terms of a mandatory interim suspension, including potential modification, in which they are allowed to submit evidence in support of their request. Requests to review a mandatory interim suspension should be submitted to Kerry Spicer, Dean of Students (or designee) at [kspicer@daemen.edu](mailto:kspicer@daemen.edu). If a request for review is received from one party, the other party will be notified of the request for review. The Dean of Students (or designee) will issue a determination in response to the request, and notify both parties of the determination.

4. **Additional Interim Measures and Accommodations.** Daemen College will offer reasonable and available interim measures and accommodations that affect changes in academic, housing, employment, transportation or other applicable arrangements in order to help ensure safety, prevent retaliation, and avoid an ongoing hostile environment, consistent with the College's policies and procedures. These interim measures may include:

- a. support services (victim advocacy, housing assistance, academic support, counseling, health and mental health services, legal assistance);
- b. changing work assignments and situations (for employees);
- c. changing living arrangements, course schedules, assignments, or test schedules (for students), if reasonably possible;
- d. no contact orders, campus escorts, transportation assistance, or targeted interventions;
- e. providing increased monitoring, supervision, or security; and/or
- f. providing an escort to and from campus locations to another campus location.

To make a request for reasonable and available interim measures and accommodations, students can contact: Tiffany Hamilton, Chief Diversity Officer/Title IX Coordinator, [thamilton@daemen.edu](mailto:thamilton@daemen.edu), (716) 839-8249 or Kerry Spicer, Assistant Vice President for Student Affairs & Dean of Students, [kspicer@daemen.edu](mailto:kspicer@daemen.edu), (716) 839-8500.

The College will protect the confidentiality of accommodations or protective measures provided to a complainant, to the extent that doing so will not impair the College's ability to provide the accommodations or protective measures. The complainant will be informed before the College shares any personally identifying information that the College believes is necessary to provide an accommodation or protective measure. If this occurs, the complainant will be told what information will be shared, with whom it will be shared, and why it will be shared.

Upon request, the College will provide the respondent and the complainant a prompt review, reasonable under the circumstances, of the need for and terms of any such interim measure and accommodation that directly affects him or her, in which he or she is allowed to submit evidence in support of his or her request. In the event that an accommodation or interim measure granted to or against one party impacts another party, both the directly impacted party and the secondarily impacted party may request a review of the terms or totality of the accommodation and/or measure by Daemen and may submit information as to the reasoning for requesting a change.

Requests to review interim measures and accommodations should be submitted to: Kerry Spicer, Assistant Vice President for Student Affairs & Dean of Students at [kspicer@daemen.edu](mailto:kspicer@daemen.edu) (for students), or Tracy Masse, Director of Employee Engagement, at [tmasse@daemen.edu](mailto:tmasse@daemen.edu), or (716) 839-8325 (for employees). If a request for review is received from one party, the other party will be notified of the request for review. The Dean of Students or Director of Employee Engagement will issue a determination in response to the request, and notify both parties of the determination.

## **VII. Investigation and Disciplinary Procedures for Sexual Offense Cases**



When Daemen Colleges becomes aware of a Sexual Offense by or against an employee or student or that has a reasonable connection to the College, it will take prompt and appropriate action.

The Dean of Students (DOS) or designee will promptly make an initial assessment regarding the validity of any information received about the incident.

If the College determines that an investigation is required, it will attempt to seek consent (to the extent that respondent is not an existing threat to the campus community) prior to conducting an investigation. If a complainant does not consent to Daemen's request to initiate an investigation, the DOS will weigh the request against the College's obligation to provide a safe, nondiscriminatory environment for all members of its community.

Daemen College will honor a request to decline to consent to an investigation, unless the College determines in good faith that failure to investigate does not adequately mitigate a potential risk of harm to the complainant or other members of the community, based on the College's consideration of factors that include, but are not limited to, the following:

1. Whether the respondent has a history of violent behavior or is a repeat offender;
2. Whether the incident represents escalation in unlawful conduct on behalf of the  
11. respondent from previously noted behavior;
3. The increased risk that the accused will commit additional acts of violence;
4. Whether the respondent used a weapon or force;
5. Whether the complainant is a minor;
6. Whether the institution possesses other means to obtain evidence such as security  
12. footage, and
7. Whether available information reveals a pattern of perpetration at a given location or by  
13. a particular group.



14. Throughout proceedings involving an accusation of sexual assault, domestic violence, dating violence, stalking, or sexual activity that may otherwise violate Daemen College's code of conduct, students have the following additional rights:

1. A prompt response to any complaint and to have the complaint investigated and adjudicated in an impartial, timely, and thorough manner by individuals who receive annual training in conducting investigations of sexual violence, the effects of trauma, impartiality, the rights of the respondent, including the right to a presumption that the respondent is "not responsible" until a finding of responsibility is made pursuant to the provisions of Daemen College's Sexual Violence policies and procedures including, but not limited to domestic violence, dating violence, stalking or sexual assault;
2. To have the Campus Standards Board Hearing 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 five days except when law enforcement specifically requests and justifies a longer delay;
3. To review and present available evidence in the case file, or otherwise in the possession or control of Daemen College, and relevant to the conduct case, consistent with Daemen College's policies and procedures; and
4. To make an impact statement to the Campus Standards Hearing Board when it is deliberating on appropriate sanctions.

15. Complainants and Respondents have the right to offer evidence during an investigation, and to present evidence and testimony at a hearing, where appropriate, and have access to a full and fair record of any such hearing, which shall be preserved and maintained for at least five years from such a hearing and may include a transcript, recording or other appropriate record.

If the College determines that a request to decline to consent to an investigation cannot be honored, and an investigation is necessary, the College must notify the complainants and take immediate action as necessary to protect and assist them.

When an investigation has commenced, and the respondent is a student, the student must be informed, as promptly as possible, of (1) the specific rule, rules, laws, and/or code of conduct provisions alleged to have been violated; (2) the date, time, location and factual allegations concerning the violation; (3) in what manner the specific rule, rules or laws are alleged to have been violated, and (4) the sanction or sanctions that may be imposed on the respondent based upon the outcome of any judicial or conduct process.

The standard of evidence used to evaluate a report of a Sexual Offense by or against an employee or student is a "preponderance of the evidence." Under this standard, a determination must be made on the basis of whether it is more likely than not that the accused student or employee violated the Sexual Offense Policies & Procedures for Students and Employees.

In investigating the complaint, the DOS/Deputy Title IX Coordinator or other trained investigator shall:

1. Meet with the appropriate individuals and review all appropriate records that bear on the case.
2. Provide the complainant and respondent with copies of the Sexual Offense Policies & Procedures for Students and Employees.
3. Discuss the allegations in the complaint with the complainant and respondent at separate meetings, and provide the complainant and respondent with equal opportunities to identify witnesses and present evidence supporting their respective positions at these meetings.
4. Provide the complainant and respondent with the same opportunities for a support person or advisor of their choice throughout the process, including any meeting, conference, hearing or other procedural action. The advisor is permitted to attend meetings and hearings. The advisor may not speak for the complainant or respondent except for the purpose of cross-examination during a hearing.
5. Where the complainant or respondent are students, provide the students with:
  - a. reasonable advance written or electronic notice of any meeting they are required to or are eligible to attend,
  - b. an opportunity to submit evidence during an investigation concerning a report of a Sexual Offense, and
  - c. the opportunity to exclude (1) their own prior sexual history with persons other than the other party in the conduct process and (2) their own mental health diagnosis and/or treatment from the Title IX Coordinator or other investigator's consideration when determining responsibility. (However, the College may consider past findings of a Sexual Offense when determining the sanction to be imposed).
6. The information collected during the investigation will be reviewed by the Dean of Students (or designee) to determine if there is sufficient evidence to proceed with a hearing.
  16. The trained investigator who conducted the investigation shall prepare a written transcript and report for review by the DOS (or designee).
  17. Typically, a Campus Standards Board hearing will be convened where the matter will be reviewed and a determination of responsibility and sanctions, if applicable, is made. The participating parties will be informed promptly, in writing, of the outcome and the issuance of the determination by the Campus Standards Board Chair. When the complainant or respondent is a student, this written notice will include the result of the investigation, any recommended sanctions, the rationale for the result and any recommended sanctions, the findings of fact, and a notification if conduct charges will be pursued and/or continued. Delivery of this outcome will not be delayed to either party, and

should occur as nearly simultaneously as possible, without unnecessarily bringing those in conflict into close proximity to each other. Should any change in outcome occur prior to finalization, all parties will be timely informed in writing, and will be notified when the results of the resolution process become final.

18. The parties will be informed of their potential rights to exercise a request for an appeal of the determination, if applicable as outlined below.

19. Internal disciplinary proceedings where a student or employee is accused of a Sexual Offense are fair and impartial, include timely notice of meetings and timely and equal access to information and evidence that will be used, and are conducted by unbiased decision makers who have no conflict of interest. The proceedings are completed within a reasonably prompt, designated timeframe, and outlined extensively in the Daemen College Student Handbook, Section 8. However, the timeframe may be extended for good cause upon written notice to the accuser and accused. The proceedings provide students with the opportunity to present evidence and testimony at a hearing. In most cases, investigations and proceedings will be completed within 60 days of receipt of a report; however, the time necessary to complete an investigation will vary depending upon the facts of a particular case.

Appeals. The accused student(s)/respondent(s) or the complainant(s), may appeal a decision made by a conduct review body. A request for an appeal must be submitted in writing to the DOS (or designee) within five (5) calendar days of the decision. Generally, the DOS will hear appeals of residential suspensions and all matters for which they did not render the decision and the Vice President of Strategic Initiatives will generally hear all appeals for CSBs and matters handled by the DOS. In cases involving sexual harassment and/or assault/violence, in accordance with New York State Education Law 129-B, the Title IX Coordinator will hear these appeals along with a panel of at least two (2) other professionals (three in total) which may or may not include the DOS depending on the extent to which they were involved in the initial hearing/decision rendered. In all other matters where the DOS has rendered a decision that do not involve sexual harassment or assault, the Vice President of Strategic Initiatives (or designee) will hear the appeal.

20.

7. The written request for any appeal must be based upon one or more of the following reasons, which must be specifically specified in the appeal:
  - a. Violation of College conduct review procedures;
  - b. Misinterpretation of the policies alleged to be violated;
  - c. New evidence not reasonably available at the time of the hearing;
  - d. Improper or excessive sanction(s);
  - e. Decision not supported by a preponderance of evidence.

Upon receipt of the appeal, the appellate body will do one of the following:

- a. Accept to hear the case at their discretion;
- b. Refuse to hear the case for lack of sufficient reason for appeal;
- c. Request that another hearing be conducted;
- d. Investigate and amend the decision and/or sanction.

In appeals by the accused involving claims of improper or excessive sanctions, decisions following appeal cannot result in more severe sanctions for the accused student. Review of the audio transcript or other supporting materials will be available to the appellate officer at their request. The decision and sanction(s) resulting from any appeal will be sent to the respondent, complainant, Dean of Students, Vice President of Strategic Initiatives, President of the College and/or persons and offices notified of the original sanction(s). Typically, the appellate body will render a final decision within 2 weeks from receiving the initial appeal.

An appeal can only be made as the result of a review of charges from a conduct review body and not from a review of a reported incident where a formal review has not occurred and/or when an informal resolution is put in place.

The College reserves the right to change and/or add to the policies, procedures and programs described in the Student Handbook and will make reasonable efforts to inform students of such changes and/or additions as they become necessary.

One or more of the following sanctions, among others, may be imposed upon any student found to have violated the Student Code of Conduct:

- warning
- loss of privileges
- fines
- conflict mediation
- restitution
- referral to support services/educational programs
- community service, probation
- educational assignments
- drug and alcohol assessment completed by a certified health care professional
- mandated room reassignment or residential suspension
- living/learning contract
- persona non grata
- transcript notation
- suspension

- expulsion

For respondents who are suspended or expelled, Daemen College will make a notation on their transcript after they are found to have violated the Code of Conduct by the Campus Standards Board. For a respondent who withdraws from Daemen College while such conduct charges are pending, and declines to complete the disciplinary process, Daemen College shall make a notation on the transcript of such respondent that they “withdrew with conduct charges pending.” Daemen College shall publish this policy on transcript notations and appeals seeking removal of a transcript notation for a suspension, provided that such notation shall not be removed prior to one year after conclusion of the suspension, while notations for expulsion shall not be removed. If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.

Engaging in a Sexual Offense may also lead to civil and/or criminal action under the New York State Penal Law. Any employee who, in violation of Daemen College’s policy, engages in a Sexual Offense, is acting outside the scope of his or her employment and may be personally liable for such actions and their consequences. In the event legal proceedings are commenced against such an employee, Daemen may decline to provide legal, financial, or other assistance.

In any proceeding brought against the College which seeks to vacate or modify a finding that a student engaged in Sexual Offense, Daemen (1) will treat the name and identifying biographical information of any student as presumptively confidential, and (2) will not include this information in the pleadings and other papers in such proceeding absent a waiver or cause shown as determined by the court; and (3) will identify student witnesses only as numbered witnesses.

## **II. Prohibition of Retaliation**

Retaliation against employees, students, third parties (such as participants in College sponsored events) or applicants for exercising their rights under this policy is also strictly prohibited and will not be tolerated. This includes retaliation against employees, students, third parties (such as participants in College sponsored events) or applicants for inquiring about their rights, or for making an honest complaint of a violation or possible violation, or for truthfully assisting in a complaint investigation. Claims of retaliation should be reported to Tiffany Hamilton, Chief Diversity Officer/Title IX Coordinator, Duns Scotus, Room 118, 716-839-8249, who is the College’s Equal Opportunity Officer.

Any employee or student who feels as though someone has subjected them to retaliation as a result of a report or participation into the investigation of a report should contact the Chief Diversity Officer/Title IX Coordinator (identified above) or other senior officer immediately.



### III. Sexual Assault Violence Prevention

#### 1. CRIME PREVENTION AND SECURITY AWARENESS PROGRAMS

- a. **Education.** Daemen College has established the Wildcat Wellness Committee, which meets once per month during the year to discuss and plan wellness education programming and awareness throughout the year. The focus of this cross campus collaboration, under the direction of the Director of the CHIP Center, comprised of faculty, staff, students, and outside agencies, and coordinated through the Student Affairs division, is to examine healthy ways to address substance abuse, dating/domestic violence, and other wellness issues in a concerted and intentional manner.

- a. All new, incoming students, including first-year students, transfers, and graduates, are required to complete two online programs, EverFi, which focus on substance use/abuse and sexual assault violence prevention in a comprehensive online training program. Students and their families are provided detailed information about this program during orientation programs and are sent numerous reminders in preparation for the start of the semester. Students who fail to complete the program are subject to a fine, although most (90% or more) of incoming students complete the training on time and as outlined. Additionally, all new students will, during welcome back weekend, go through a 60-min course, taught in small groups, that focus on consent, bystander intervention techniques, and bias reporting. Several more focused Bystander Intervention Training workshops are required for all student leaders including RAs, OLs, NCAA D11 Athletes, Tour Guides, Greeks, etc. In addition to providing the necessary education and training to student leaders to create a supportive campus environment, this also complies with New York State Education Law 129-B. Students are also highly encouraged to attend various other passive and active programs throughout the year on dating and domestic violence prevention. Examples of such events over the past year include One Night theatrical performance, the Red Flag Campaign, Domestic Violence Awareness month events, etc.

- b. Campus safety and fire safety procedures are discussed during resident assistant training and residence hall floor meetings. Possible sanctions for students include drug/alcohol assessment with an off-campus, licensed professional and/or random drug testing. New students are provided with a "Right to Know" information regarding Title IX and sexual violence, as well as the Campus Sexual Assault Victim's Bill of Rights, in compliance with federal and state guidelines as well as New York State Education Law 129-B. The latter is also posted in all of the residence halls, including those rented by the College at Collegiate Village, and key student life areas such as the Wick Student Center. The Title IX coordinator also posts "Right to Know" information throughout the campus. Advisory letters are sent each semester to students with disabilities requesting assistance in case of emergency, advising them of evacuation policies and procedures. Athletics requires its athletes to participate in additional alcohol awareness programming. Employee

Engagement sends out an annual email to employees regarding online sexual harassment training. As previously noted, annual CSA notification and training is coordinated through the Office of the Vice President for Strategic Initiatives. Additionally, campus evacuation and emergency response procedures are posted throughout campus, in each office and classroom.

- c. Finally, Daemen College works with Crisis Services of Buffalo advocates who provide education to the campus community, including faculty and staff, and direct service to victims/survivors if/when a situation is reported.
- b. **Crime Prevention Measures.** Most on-campus crime can be prevented if rules are followed and common-sense safety tips are observed. The College's mission commits the institution to the elimination of crime and the attendant suffering of the victims of crime. This can be accomplished by teaching students and the community how to reduce the risks of crimes against themselves and others. When necessary, the College will provide timely announcements of on-campus criminal activity that has been reported to Campus Safety or the police. Students and employees are provided procedures and practices regarding safety at resident assistant training, resident floor meetings, as well as through applicable handbooks (faculty, staff, administration, and student).
- d. The College takes its commitment to security seriously, by striving to maintain a safe and secure working and studying environment. Members of the College community can assist in this effort by adhering to the following safety tips and other common-sense rules:
  - Travelling with a companion whenever possible.
  - Following parking regulations including parking in well-lit areas for late night classes, walking with a companion, and/or contacting Campus Safety for a walking escort to a building or vehicle if needed.
  - Keeping the gas tank full.
  - Locking the car door – both while away from it and while traveling in it.
  - Having keys ready to unlock the vehicle; conducting a cursory scan to make sure it is unoccupied.
  - Never hitchhiking or picking up hitchhikers.
  - Driving to a police station, fire station, or other very public place if there is suspicion of being followed.
  - When on an elevator, staying near the controls and, if attacked, pushing every button.
  - Staying near the street when walking and avoiding bushes, shrubs, and buildings. Walking confidently – a good defense is to look and act confident.
  - Not riding with a stranger.
  - When riding public transportation, sitting near the front if possible and being familiar with the schedule to avoid long waits.

- Telling friends and families whereabouts on trips and expected time of return.
  - Reporting all suspicious persons seen on campus to:
    - (i) Main Street Campus Safety 716-839-SAFE (7233)
    - (ii) Collegiate Village Security 716-831-6000
  - Carrying a noise maker (whistle or other device) if out after dark.
- c. **Bystander Intervention.** Student Leaders at Daemen College go through a robust, 90-minute Bystander Intervention course. This training includes NCAA Division II Athletes, Resident Assistants, Orientation Leaders, Peer Mentors, Tour Guides, and Greek Life members. The training focuses on consent, using the affirmative definition of consent as mandated by New York State Education Law 129-B and how to recognize the signs of abuse and to intervene, where appropriate.
- d. **Summary of Education Programs.** In addition to the aforementioned training and education, the College completes year round training through passive campaigns around topics such as knowing the code of conduct, cyber-bullying, reporting suspicious persons, and reporting student concerns. The College also conducts regular events through clubs and organizations that focus on awareness, acceptance, and creating an environment that is free of hostility. Additionally, in accordance with New York State Law, the College conducts fire drills (3 per year for academic buildings; 4 per year for residence halls), regular tests of the mass notification system, and table top exercises for the Emergency Response Team. In October of 2016, the College hosted a joint-live action active shooter drill with professionals from the Amherst Police Department, Snyder Fire and Rescue and Twin City Ambulance.

#### IV. Sexual Offender Registry

The federal Campus Sex Crimes Prevention Act enacted in 2000 went into effect October 28, 2002. The law requires institutions of higher education to issue a statement advising the campus community where law enforcement agency information provided by a State concerning registered sex offenders may be obtained. It also requires sex offenders required to register in a State to provide notice, as required under state law, of each institution of higher education in that State at which the person is employed, carries on a vocation, or is a student. The New York State sex offender registry may be accessed at [www.criminaljustice.ny.gov/nsor](http://www.criminaljustice.ny.gov/nsor).

In addition, the Town of Amherst maintains a sex offender registry that may be accessed by “Entities of Vulnerable Population.”

#### V. Memoranda of Understanding

Daemen College has entered into memoranda of understanding with Crisis Services of Buffalo:

- A. to provide sexual assault forensic examination to students; and

- B. to provide legal assistance to students (including both respondents and reporting individuals); and
- C. to further provide victim advocacy and support services to victims of sexual violence

## **II. Climate Surveys**

Commencing during the 2018-2019 school year, DC conducted a biannual anonymous survey of student and employees to examine (1) the prevalence and incidence of Sexual Offense, (2) the perceptions of the campus climate, (3) the general awareness and knowledge of students and employees about the provisions of the New York Enough is Enough law, and (4) student experience with and knowledge of reporting and college adjudicatory process. Participation in such a climate survey shall be voluntary but is encouraged.

### [2019 Campus Climate Survey](#)

## **III. Annual Reporting**

Reports of certain crimes occurring in specific geographic locations are included in DC's annual security report (ASR), in an anonymized manner that identifies neither the specifics of the crime nor the identity of the complainant.

Daemen College is obligated to issue timely warnings of crimes enumerated in the Clery Act occurring within relevant geography that represent a serious or continuing threat to students and employees, except in those circumstances where issuing such a warning may compromise current law enforcement efforts or when the warning itself could potentially identify the reporting individual. A complainant shall not be identified in a timely warning.

FERPA allows the College to share information with parents when (i.) there is a health or safety emergency, or (ii.) when the student is a dependent on either parent's prior year federal income tax return. Generally, however, Daemen College will not share information about a report of domestic violence, dating violence, stalking, or sexual assault with parents without the permission of the complainant.

Daemen College will annually report the following information about reports of domestic violence, dating violence, stalking and sexual assault to the New York State Education Department:

- a. The number of such incidents that were reported to the Title IX Coordinator.
- b. The number of complainants who sought Daemen College's judicial or conduct process.
- c. The number of cases processed through Daemen College's judicial or conduct process.



- d. The number of respondents who were found responsible through Daemen College's judicial or conduct process.
- e. The number of respondents who were found not responsible through Daemen College's judicial or conduct process.
- f. A description of the final sanctions imposed by Daemen College for each incident for which a respondent was found responsible through the College's judicial or conduct process.
- g. The number of cases in Daemen College's judicial or conduct process that were closed prior to a final determination after the respondent withdrew from Daemen College and declined to complete the disciplinary process.
- h. The number of cases in Daemen's judicial or conduct process that were closed because the complaint was withdrawn by the reporting individual prior to a final determination.