

# **MONROE** **COLLEGE**

## **Sexual Misconduct Policy**

last revised: August 2020

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Dear Student,

This policy book describes Monroe College’s position, policies, and procedures regarding incidents of sexual misconduct. You are encouraged to read it in its entirety so that you know:

- How to respond in the event that you or a friend are subjected to sexual violence, including sexual assault, rape, stalking, domestic violence, dating violence, sexual harassment, unwanted sexual activity or contact, and other sexual misconduct
- Your rights under federal and New York State laws
- How to file a confidential or anonymous report of sexual misconduct
- How to access resources and support services
- College policies and disciplinary procedures regarding incidents of sexual misconduct

This policy book has been designed with you, the student, in mind – if anything written here is unclear or confusing, we encourage you to reach out to us by contacting:

David Dimond, Senior Vice President

[ddimond@monroecollege.edu](mailto:ddimond@monroecollege.edu) 914-740-6436

or

Paula Green, Title IX Coordinator and Director of Public Safety

[pgreen@monroecollege.edu](mailto:pgreen@monroecollege.edu) 914-740-6612

## **Section 1: Statement of Purpose**

Monroe College is committed to promoting a learning and working environment where all members of the college community feel safe and respected. Acts of sexual misconduct are contrary to the College's educational mission and values, are harmful to others, and will not be tolerated by Monroe College. This policy prohibits sexual violence, sexual harassment, sexual misconduct, and other related offenses in all College programs and activities. Conduct prohibited by this policy may also violate federal and/or New York State laws enforced through the criminal justice system. Individuals are free to pursue action under this policy and through the criminal justice system simultaneously. Monroe College takes seriously all reports of sexual misconduct and promises to promptly and fairly respond to all reports of misconduct in a manner intended to eliminate the misconduct, prevent its recurrence, and address its impact on affected individuals and the College community. All College proceedings conducted in regard to alleged violations of this policy will be done so in a timely and equitable process that provides adequate notice and a meaningful opportunity for all parties to be heard.

## **Section 2: Scope of this Policy**

This policy intends to address conduct prohibited under federal laws, including Title IX, the Clery Act, and the Violence Against Women Act, as well as under New York State law, specifically its "Enough Is Enough" law (Education Law 129-B).

This policy applies to all College community members, including students, faculty, staff, other employees, and independent contractors. Monroe College will receive and address reports received from any individual, whether or not he/she is affiliated with the College, that a College community member has violated this policy. Vendors, contractors, visitors, and others who conduct business with the College or on College property are likewise expected to comply with this policy. The prohibitions and protections in this policy apply regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction.

The prohibitions and protections in this policy apply regardless of whether the violation occurs on campus or off campus. Members of the Monroe College community who commit acts of sexual misconduct will be disciplined appropriately and pursuant to College policy. This policy book describes protections specifically for students who are subjected to sexual misconduct as well as disciplinary procedures specifically relevant to students who commit sexual misconduct. The actions the College is empowered to take against an individual who commits sexual misconduct may vary or be limited when that individual is not a member of the College community; however, whenever a member of the College community is subjected to sexual misconduct, regardless of the status of the individual who committed it, Monroe College will continue to provide support, resources, and protection to the affected community member. At all times, Monroe College will cooperate with and assist in law enforcement investigations whenever appropriate and requested to do so.

### Section 3: Terminology and Definitions

The following terms are used throughout this policy book and may be heard during conversations with College officials and/or during student conduct proceedings. Due to the sensitive and sometimes violent nature of incidents involving sexual misconduct, the following definitions are provided for informational use by students and for guidance in the investigation and processing of alleged violations. It is possible that a particular action may constitute sexual misconduct even if not specifically mentioned in these definitions. Where any term is not specifically defined under this policy, this policy applies the common meaning of the word as set forth by the English dictionary preferred by \_\_\_\_\_.

If you have any questions about what these terms mean or whether they apply to certain situations, please feel free to talk to your campus Title IX Coordinator. Any questions about whether a specific incident violates New York State criminal laws should be addressed to law enforcement or to the district attorney.

#### Sexual activity

- Sexual activity includes both sexual acts and sexual contact.
  - Sexual act
    - Contact between the penis and the vulva or between the penis and the anus. Contact involving the penis occurs upon penetration, however slight.
    - Contact between the mouth and the penis, mouth and the vulva, or the mouth and the anus.
    - Penetration, however slight, of the anal or genital opening of another person by a hand, finger, or any object, with the intent to abuse, humiliate, harass, degrade, arouse, or gratify the sexual desire of any person.
    - Intentional touching, not through clothing, of the genitalia of another person under the age of 16 years, with an intent to abuse, humiliate, harass, degrade, arouse, or gratify the sexual desire of any person.
  - Sexual contact
    - Intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, arouse, or gratify the sexual desire of any person.

#### Sexual misconduct

- Sexual misconduct is a broad term that encompasses a range of behaviors. Sexual misconduct can occur between people who know each other, people who have an established relationship, people who have engaged in consensual sexual activity before, and people who don't know each other. Sexual misconduct can be committed by persons of any gender or gender identity, and it can occur between people of the same sex or different sex. Sexual misconduct includes but is not limited to:
  - Sexual assault
    - Unwanted sexual activity and/or unwanted sexual contact that has not been consented to by one or more of the participants, including but not limited to:

- Rape
  - The penetration, no matter how slight, of a person’s vagina or anus, without that person’s consent, by another person with any body part or object; and/or the penetration of a person’s mouth, without that person’s consent, by another person’s sex organ.
- Sexual coercion
  - Using verbal pressure to compel another person to engage in sexual activity that he/she would otherwise not consent to, including but not limited to telling lies, threatening to spread rumors, and engaging in verbal abuse.
- Fondling
  - Touching the private body parts of another person, without that person’s consent, for the purpose of sexual gratification.
- Statutory rape
  - Sexual intercourse between an adult (i.e., age 18 and older) and a person who is under the legal age of consent. In New York State, the age of consent is 17.
- Sexual exploitation
  - Engaging intentionally in exploitive behavior including but not limited to:
    - Observing another person when that person is nude or engaged in sexual activity without the knowledge and consent of the person observed, or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
    - Making, sharing, posting, streaming, or otherwise distributing any image, photography, video, or audio recording depicting or otherwise recording another person when that person is nude or engaged in sexual activity without the knowledge and consent of the person depicted or recorded;
    - Exposing one’s genitals to another person without the consent of that person;
    - Exposing another person to a sexually transmitted infection without the knowledge and consent of the person exposed;
    - Causing another person to become incapacitated with the intent of making that person vulnerable to non-consensual sexual activity or sexual exploitation.
- Stalking
  - Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her safety or the safety of others, or would cause a reasonable person to suffer substantial emotional distress.
- Domestic violence
  - Violence committed by a current or former spouse, by a person with whom you share a child, or by a person with whom you live or have lived as a spouse or intimate partner, including acts of sexual violence, sexual abuse, physical abuse, or the threat of any such abuse.

- Dating violence
  - Violence committed by a person you are dating or have dated, or by a person with whom you have or have had a relationship of a romantic or intimate nature, including acts of sexual violence, sexual abuse, physical abuse, or the threat of any such abuse.
- Gender-based harassment
  - Unwelcome conduct of a non-sexual nature based upon a person’s actual or perceived sex, including conduct based on gender identity, gender expression, and non-conformity with gender stereotypes.
- Sexual harassment
  - Sexual harassment can take numerous forms, and under this policy includes misconduct directed at an individual on the basis of his or her sex and which constitutes one or more of the following behaviors: (i) any employee of Monroe College conditioning any aid, benefit, or service of the College on a student’s participation in unwelcome sexual conduct; (ii) “sexual assault”, “stalking”, “domestic violence”, and/or “dating violence” as defined on the prior page; and/or (iii) unwelcome conduct of a sexual nature that is so severe, persistent or pervasive, and objectively offensive to a reasonable person that it effectively denies or otherwise limits a student’s ability to participate in or benefit from an education program or activity of Monroe College or as to create a hostile or abusive educational environment, including but not limited to the following:
    - Unwelcome sexual advances
    - Requests for sexual favors
    - Sexual exploitation
    - Offering employment or educational benefits in exchange for sexual favors
    - Threatening or taking negative action in the event of having sexual advances denied and/or after having sexual advances denied, such as a professor threatening to fail a student unless the student agrees to date the professor
    - Graphic verbal comments about an individual’s body or appearance
    - Spreading sexual rumors
    - Touching an individual’s body or clothing (including one’s own) in a sexual way, such as grabbing, brushing against, patting, pinching, bumping, rubbing, kissing, fondling, etc.
    - Other verbal or non-verbal conduct of a sexual nature
    - Other sexual misconduct and/or sexual violence including stalking, dating violence, and domestic violence
- Sex discrimination and/or gender discrimination
  - Treating an individual unfavorably or adversely based upon that individual’s sex and/or gender in the context of educational or employment activities, programs, or benefits, such as in admissions, hiring, selection for and/or participation in projects, teams, or events, provision of wages or benefits, selection for promotions, etc.

- Retaliation
  - Taking adverse action against an individual for making a good faith report of prohibited behavior, for participating in any investigation or proceeding into such behavior, and/or otherwise cooperating with the College's efforts to prevent and remediate sexual misconduct in its community, including but not limited to engaging in intimidation, threats, coercion, and/or adverse actions regarding education or employment.
  - Retaliation does not exist where an individual pursues actions in good faith in response to a report of prohibited behavior, such as an accused individual offering evidence in his/her own defense.
  - Retaliation may be committed by an accused individual, a reporting individual, or any other person or group of persons.
  - Retaliation may exist even where an underlying report that was made in good faith was found to be unsubstantiated by evidence and/or the accused individual was determined to be 'not responsible'.
- Other sexual violence
- Other inappropriate behavior of a sexual nature

#### Affirmative consent

- Affirmative consent is the knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.
- Important guidance regarding consent...
  - Consent to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act.
  - Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
  - Consent may be initially given but withdrawn at any time.
  - Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.
  - Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
  - When consent is withdrawn or can no longer be given, sexual activity must stop.
- In a nutshell: Sex is something you participate in, not something that happens to you!

#### Title IX Coordinator

- The Monroe College Title IX Coordinators for each campus are:

Paula Green	Title IX Coordinator and Director of Public Safety New Rochelle Campus	pgreen@monroecollege.edu 914-740-6854 Allison Hall, 368 Main Street, New Rochelle, NY
Jeannette Makodila	Title IX Coordinator and Student Services Advisor Bronx Campus	<a href="mailto:jmakodila@monroecollege.edu">jmakodila@monroecollege.edu</a> 646-393-8547 King Hall 2501 Jerome Ave., Bronx NY

- Each campus Title IX Coordinator is responsible for coordinating the College’s prevention of and response to sexual harassment and sexual violence, as well as for addressing any questions or inquiries regarding how Monroe College applies federal Title IX law and regulations. The Title IX Coordinators also coordinate the College’s response to acts of sexual misconduct as required by New York State’s “Enough Is Enough” law (Education Law 129-B).
- The Title IX Coordinator has many responsibilities as part of his/her job of ensuring the College complies with the law. The Title IX Coordinator has the primary responsibility for:
  - Receiving complaints regarding sexual misconduct;
  - Providing information to students about resources and support services available;
  - Directing investigations into incidents of sexual misconduct;
  - Issuing interim protective measures and arranging requested accommodations;
  - Initiating student conduct charges against students who have committed sexual misconduct;
  - Ensuring the student conduct process is handled the right way;
  - Overseeing student compliance with consequences and sanctions imposed through the student conduct process;
  - Collecting statistics regarding the prevalence of sexual misconduct on campus;
  - Conducting annual surveys of the campus community regarding sexual misconduct; and
  - Overseeing education and training programs relating to sexual misconduct.
- The Title IX Coordinator is the person with whom you would file a formal report regarding sexual misconduct. You can also privately tell the Title IX Coordinator about incidents of sexual misconduct even if you do not want to file a formal report. You can also disclose those incidents to other College officials, if you prefer.
  - Some College officials are required to notify the Title IX Coordinator when a student discloses an incident of sexual misconduct to them, in order to protect the safety of other people on campus and so that the Title IX Coordinator can reach out to the student to offer help, support, and information about filing a formal report if the student desires to do so. Those College officials would only provide the Title IX Coordinator with the necessary information, and the student’s privacy would be maintained at all times. More information about privacy is on the next page.



- Other College officials are not required to notify the Title IX Coordinator when a student discloses an incident of sexual misconduct to them. These College officials are known as “Confidential Resources”. Monroe College has one Confidential Resource with whom students can speak with confidentially. More information about confidentiality and the Confidential Resource is provided below and on the next page. The Title IX Coordinator will maintain student privacy to the greatest extent possible, but is not a Confidential Resource, given the nature of their duties.

Confidentiality

- Confidentiality can be offered by a College official who is not required by law to report known incidents of sexual assault or other crimes to the College’s Title IX Coordinator or any other College officials. Any conversation you have with a Confidential Resource will be kept completely confidential and will not be shared with anyone else without your permission, except in the very rare and extreme circumstance where someone’s safety is at risk.
- Monroe College has one College official who can offer complete confidentiality to persons who want to confidentially report an incident of sexual misconduct.
- The Monroe College Confidential Resource is:

David Dimond	Senior Vice President	914-740-6436 ddimond@monroecollege.edu New Rochelle campus: Milavec Hall 370 Main Street, New Rochelle NY
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- Examples of other individuals who can offer confidentiality:
  - Medical providers
  - Lawyers providing legal advice
  - Licensed mental health counselors, psychologists, and social workers
  - Pastoral counselors (e.g., priests and other clergy members)
  - Local rape crisis centers and other confidential community resources  
*See pages 15 – 19 for a list of local community resources near the Monroe College campuses, or call the NYS Sexual Violence Hotline at 1-800-942-6906 (available 24/7/365) to be connected to your local rape crisis center*

Privacy

- Privacy will be provided by a College official who is unable to offer confidentiality due to their legal obligation to report known incidents of sexual assault or other crimes to the Title IX Coordinator. Even College officials who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution.
- Any Monroe College official who is not considered a confidential resource, including the Title IX Coordinator, is considered a College official who will guarantee privacy.

Accused

- A person accused of sexual misconduct or another violation of this policy.

### Reporting individual

- Reporting individual includes any person who is a victim, survivor, complainant, and other individuals who were subjected to sexual misconduct, and then report it.

### Bystander

- Bystander includes any person who witnesses or learns about sexual misconduct or another violation of this policy who is not themselves the victim or person subjected to the sexual misconduct.
- Bystanders are welcome and encouraged to report incidents of sexual misconduct that they have witnessed or learned about.
  - If your friend is a victim of sexual misconduct, please encourage them to reach out for help. A list of on-campus and off-campus resources available to victims can be found on pages 15–19.

## **Section 4: Prohibited Behavior**

Monroe College is a place of academic learning, and its community members are expected to behave accordingly. The following behaviors are considered specific and serious violations of this policy. Violations of this policy can occur both on-campus and off-campus and may also include other unacceptable conduct not specifically listed below. Any possible or known violation of this policy may result in the college conducting an investigation; in certain instances, the College is obligated by federal and/or New York State law to conduct an investigation into these behaviors. Students believed to have committed prohibited behavior, including sexual misconduct, in violation of this policy may face student conduct charges, which can result in serious consequences, such as suspension or expulsion. For more information, see **Disciplinary Process for Students who Commit Sexual Misconduct** described in **Section 7** of this policy book.

### Prohibited Behavior:

- Sexual misconduct, including but not limited to:
  - Rape
  - Sexual assault
  - Sexual harassment
  - Stalking
  - Domestic violence
  - Dating violence
  - Unwanted sexual activity and/or contact
  - Fondling
  - Statutory rape
  - Gender-based harassment
  - Sex discrimination
  - Retaliation against someone who has made a complaint about sexual misconduct
  - Sexual exploitation
  - Sexual coercion
  - Other sexual violence

- Other sexually inappropriate behavior
- Attempting to commit sexual misconduct
- Aiding another person in committing sexual misconduct
- Knowingly violating an interim measure or sanction imposed by the College pursuant to this policy, such as a 'no contact' order, interim removal, suspension, or other measures and/or sanctions deemed appropriate under the circumstances
- Knowingly filing a false report of any prohibited behavior

The above forms of sexual misconduct are defined in **Terminology and Definitions** in **Section 3** of this policy book.

## **Section 5: How to Report Incidents of Sexual Misconduct**

In any instance of sexual misconduct, a student has the right to report the incident Monroe College, to campus security, to local law enforcement, to the State police, to any combination of these authorities, or to not report the incident at all.

### Disclosing vs. Reporting

Sometimes students wish to tell someone about an incident of sexual misconduct but are not yet sure whether they wish to see official action taken against the individual who committed it. Students have the option to disclose (tell someone about) an incident without being obligated to file a formal report. Whether a student chooses to disclose or chooses to formally report an incident, the student has the right to be protected by Monroe College from retaliation and the right to receive assistance and resources from the College.

The campus Title IX Coordinator is the person with whom a student would file a formal report regarding sexual misconduct, if the student wishes to do so. Upon receiving a formal report, the Title IX Coordinator begins an investigation into the incident and commences the student disciplinary process against the individual who committed the sexual misconduct, if that individual is a student of the College (or, if the individual is not a student, takes other appropriate action). The Title IX Coordinator will also offer the student assistance and resources.

Students can also make a formal report to the Title IX Coordinator even if they do not want an investigation to occur. Although the Title IX Coordinator is not a “confidential resource” in that same way as the Confidential Resource listed on pages 7–8 of this policy, reporting an incident to the Title IX Coordinator while expressing one’s wish for no investigation to occur is known as a “confidential report” to the Title IX Coordinator. This is considered a “confidential report” in that the Title IX Coordinator will first ask the student’s permission before beginning an investigation and commencing the student disciplinary process. If the student declines to give permission, the Title IX Coordinator will honor the student’s decision and will not investigate the report, except in circumstances where failing to investigate would prevent the College from providing a safe and non-discriminatory environment for all members of the College community. In those cases, the student would not be obligated to participate in the investigation or the disciplinary process. Whatever the student decides, the Title IX Coordinator will still offer the student assistance and resources.

### Disclosing to Someone Other than the Title IX Coordinator

Incidents can also be disclosed to Monroe College employees other than the Title IX Coordinator, if the student prefers to do so. Some College employees are required to notify the Title IX Coordinator when an incident of sexual misconduct is disclosed to them, in order to protect the safety of other people on campus and so that the Title IX Coordinator can reach out to the student to offer help, support, and information about filing a formal report if the student desires. While these College employees cannot offer true confidentiality, they promise not to disclose more information to the Title IX Coordinator than necessary. The information disclosed will be limited

to only the information needed to conduct an investigation (if the student permits) and to ensure student safety.

Other Monroe College officials are not required to notify the Title IX Coordinator when a student discloses an incident of sexual misconduct to them. These college officials are known as “Confidential Resources”. Monroe College has one Confidential Resource (see pages 7–8) with whom students can speak with confidentially. This person can help students obtain assistance and resources without sharing a student’s confidential information with anyone else. Speaking to the Confidential Resource will not result in a formal report being made.

Students can also disclose incidents to non-College officials, such as a local rape crisis center or a mental health counselor. A list of some local community resources is provided in **Section 6**. You can also find local rape crisis centers and other community resources by dialing 2-1-1 or 3-1-1, or by calling the New York State Domestic & Sexual Violence Hotline (1-800-942-6906). These types of non-College officials provide confidentiality and can offer support and referrals to helpful services and resources. These persons are not affiliated with the College and have no obligation to notify the Title IX Coordinator about the incident.

#### Making a Formal Report Confidentially and/or Anonymously

In addition to the options described above in regard to privately or confidentially disclosing an incident of sexual misconduct, students also have several options for making a formal report. The campus Title IX Coordinator is the person with whom a student would file a formal report regarding sexual misconduct, if the student wishes to do so. Formal reports can be made to the Title IX Coordinator by:

- Making a report to your campus Title IX Coordinator in-person, via email, or via the online incident report form (accessible at: [www.monroecollege.edu/incident-reporting-form](http://www.monroecollege.edu/incident-reporting-form)).

Paula Green	Title IX Coordinator and Director of Public Safety New Rochelle campus	<a href="mailto:pgreen@monroecollege.edu">pgreen@monroecollege.edu</a> 914-740-6854 Allison Hall, 368 Main Street, New Rochelle, NY
Jeannette Makodila	Title IX Coordinator and Student Services Advisor Office of Student Affairs Bronx campus	<a href="mailto:jmakodila@monroecollege.edu">jmakodila@monroecollege.edu</a> 646-393-8204 King Hall 2501 Jerome Ave., Bronx NY

All reports of sexual misconduct made to all Monroe College employees will be handled with privacy. Students reporting instances of sexual misconduct – whether they are the victim, a friend, or a witness/bystander – can also make confidential and/or anonymous reports if they prefer to do so.

- Confidential reports can be made by telling the Title IX Coordinator that you do not want an investigation to occur.
  - Important notes regarding “confidential reports”:

- While this reporting method is known as a “confidential report”, due to the nature of their responsibilities, the Title IX Coordinator is not truly a “confidential resource” in the same way as the Confidential Resource listed on pages 7–8. As noted above, all information provided will be handled with the utmost privacy.
  - When a reporting individual formally reports an incident of sexual misconduct but expresses that he/she does not wish for the college to conduct an investigation, the College will typically honor that request. However, sometimes Monroe College will be obligated to weigh such a request against the College’s duty to ensure the safety of others on campus. Some of the factors the College may consider in weighing a request to not investigate may include: whether the accused individual has a history of violent behavior or is a repeat offender; whether the incident represents escalation in unlawful conduct by the accused individual; the increased risk that the accused individual will commit additional acts of violence; whether the accused individual used a weapon and/or force; whether the reporting individual is a minor; whether the institution possess other means to obtain evidence (e.g., security footage), and whether available information reveals a pattern of perpetration at a given location or by a particular group. If Monroe College determines that it cannot maintain a victim’s confidentiality and that an investigation is necessary, the student who reported the incident will be notified in writing prior to the start of an investigation and the College will, to the extent possible, only share information with the people responsible for handling the College’s response. Monroe College will remain ever mindful of the victim’s well-being, and will take ongoing steps to protect the victim from retaliation or harm and will work with the victim to create a safety plan. Retaliation against the victim, whether by students or college employees, will not be tolerated.
- Anonymous reports can be made by submitting a report via Monroe College’s online incident report form (accessible at: [www.monroecollege.edu/incident-reporting-form](http://www.monroecollege.edu/incident-reporting-form)) and not providing your name. Online reports are submitted directly to the Title IX Coordinator. Your name and contact information is never seen unless you choose to provide it, and all reports are treated with the utmost privacy. You may provide as much or as little information as you are comfortable providing. Information that would be helpful to include in your report would be the name of the person who committed the sexual misconduct, the date it occurred, the facts of what happened, and any other information that might help us address the situation.
  - Important note regarding anonymous reports:
    - Individuals who wish to anonymously report an incident should be aware that their anonymity may inhibit Monroe College’s ability to conduct a full investigation of the incident, provide support, and/or update the student regarding actions taken.

Regardless of how a student chooses to make a report, Monroe College may not require a victim to participate in any investigation or disciplinary proceeding.

In the event that sexual misconduct has been committed by a non-member of the College community (including an unknown person or stranger), students may still report the incident to the College and receive support and protection. For a list of on-campus and off-campus resources and support services near the Monroe College campuses, see **Resources, Support Services, and Protection for Victims** in **Section 6** of this policy.

Students also have the option to make a report to law enforcement, either in addition to or as an alternative to making a report to the College. You can make a report to law enforcement by:

- Contacting the New York State Police at 1-844-845-7269
- Contacting local law enforcement near the Monroe College campuses
  - New Rochelle campus: New Rochelle Police Department at 914-654-2300
  - Bronx campus: NYPD 52<sup>nd</sup> Precinct, Domestic Violence Unit at 718-220-5857
- Contacting local law enforcement in your neighborhood
- Calling 911 (emergencies)

#### Amnesty Policy for Alcohol and/or Drug Use

Students should not be afraid to report an incident of sexual misconduct merely because they were drinking alcohol or using drugs at the time of the incident, whether they were a victim, witness, or bystander. Monroe College has adopted an amnesty policy for alcohol and/or drug use in regard to incidents of sexual misconduct. The health and safety of every student at Monroe College is of utmost importance. Monroe 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. Monroe College strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to College officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to Monroe College officials or law enforcement will not be subject to the College's 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.

#### Disclosures During Advocacy Events

Individuals occasionally disclose information regarding sexual misconduct during a public awareness and/or advocacy event, such as candlelight vigils, protests, survivor speak-outs, Clothesline Project events, Take Back the Night events, Day of Unity events, and other similar public events. These events typically serve the purpose of empowering survivors and raising awareness about issues related to sexual violence, as opposed to serving as a forum in which formal reports are made. Accordingly, the Monroe College is not obligated to begin an investigation based on information disclosed at these events, however any individual always remains free to file a report with the college if they choose to do so. The College may use information provided at such events to inform its efforts for additional education and prevention efforts regarding sexual misconduct and sexual violence.

### Campus Alerts

When certain crimes occur in certain areas on and/or near campus that represent a serious or continuing threat to the campus community, Monroe College is obligated under federal law to issue a timely warning in order to protect the safety of others. Crimes triggering a timely warning might include, for example, a rapist who is still present on campus. When a timely warning is issued, the warning will never identify any victims or reporting individuals.

### Campus Crime Data

When the Title IX Coordinator receives reports of sexual misconduct and certain other crimes that occur in certain locations on and/or near campus, federal and New York State laws require the Title IX Coordinator to count the number of those reports for inclusion in the College's annual security report. This is merely an anonymous tally – neither the identity of the reporting individual nor the specifics of the crime are included in the annual security report.



## Section 6: Resources, Support Services, and Protections

Monroe College is committed to supporting victims and survivors of sexual misconduct and sexual violence, regardless of when, where, or who committed the acts in question. The College is similarly committed to supporting students who have been accused of sexual misconduct, and **all** students of Monroe College are equally entitled to access appropriate resources, support services, and protections made available under this policy. In this section, the College has collected information and resources that may be helpful. If there are other resources that you or a friend might need, the College encourages you to reach out to your campus Title IX Coordinator, who can help obtain those resources. If you are in immediate danger at any point, call 911!

### Obtaining Immediate Medical Attention

If you have been the victim of rape, sexual assault, domestic violence, or dating violence and are in need of immediate medical attention, please call 911 and/or consider visiting a hospital, urgent care center, or medical provider. Below is a list of emergency medical facilities and other medical providers near the Monroe College campuses. New York State law requires that all hospitals in the State offer forensic rape examinations (sometimes also called ‘forensic sexual assault examinations’ or simply ‘rape kits’). Hospitals must notify the victim/survivor that they can choose to have the forensic rape exam and its related charges billed to the NYS Office of Victim Services at no cost to the victim/survivor. After the exam, you might receive other medical services or counseling services for which the hospital might charge you or bill your health insurance; if your insurance plan is through someone else (such as your parent), you are encouraged to tell hospital staff if you do not want your insurance policyholder to be notified about your access to these services.

Especially in incidents of rape or sexual assault, it may be important to receive a forensic examination as soon as possible in order to preserve evidence and/or to receive protection from sexually transmitted infections and pregnancy. To best preserve evidence, you should avoid showering, washing, changing clothes, discarding clothes, combing hair, or otherwise altering your physical appearance until the exam is complete, and you should seek an exam as soon as possible. Most medical professionals recommend receiving emergency HIV-prevention medication within 36 hours (1.5 days), a forensic exam within 96 hours (4 days), and emergency contraception (sometimes called “the morning-after pill”) within 120 hours (5 days) of being raped or sexually assaulted. Even if you do not want evidence to be collected, it is still recommended that you get examined by a doctor in order to address physical injuries, potential pregnancy, and possible exposure to sexually transmitted infections. For more information about what to do after an assault, please call the NYS Sexual Violence Hotline at 1-800-942-6906 (available 24/7/365) to be connected to your local rape crisis center or visit the National Sexual Violence Resource Center website at [www.nsvrc.org](http://www.nsvrc.org).

<b>Medical Facilities near Monroe College</b>		
<b>New Rochelle campus</b>		
<b>Montefiore New Rochelle Hospital</b>	16 Guion Place, New Rochelle, NY 10802	914-365-3700
<b>Montefiore Mount Vernon Hospital</b>	12 North 7 <sup>th</sup> Avenue, Mount Vernon, NY 10550	914-361-6100
<b>New York-Presbyterian Lawrence Hospital</b>	55 Palmer Avenue, Bronxville, NY 10708	914-787-1000

<b>Westchester Medical Center</b> 100 Woods Road, Valhalla, NY 10595 1-866-468-6962
<b>Bronx campus</b>
<b>New York-Presbyterian Hospital Allen Pavilion</b> 5141 Broadway, New York, NY 10034 212-305-3710
<b>Saint Barnabas Hospital</b> 4422 Third Avenue, Bronx, NY 10457 718-960-6100
<b>North Central Bronx Hospital</b> 3424 Kossuth Avenue, Bronx, NY 10467 718-519-3500
<b>Montefiore Medical Center Moses Division</b> 111 East 210 <sup>th</sup> Street, Bronx, NY 10467 718-920-2001

More information regarding forensic examinations and sexually transmitted infections, as well as other resources available through the New York State Office of Victim Services, by talking to your campus Title IX Coordinator, or by contacting the New York State Office of Victim Services directly at 1-800-247-8035 or <https://ovs.ny.gov/contact-us>.

### On-Campus and Off-Campus Resources and Support Services

Individuals who have been subjected to sexual misconduct also often need other types of support. Even if you think you are okay and that you do not need help, the College encourages you to reach out to someone. Monroe College offers on-campus resources that may benefit you. Students may use on-campus resources at either campus, even if they normally attend classes at a different campus. In addition, there are various off-campus resources that you can use if you prefer not to seek help from on-campus resources. Below is a list of on-campus and off-campus resources near the Monroe College campuses, including counselors, advocates, and community resources. More resources are also listed on Monroe College’s website: <https://monroecollege.edu/Resources-and-Services/>. If you have any questions or aren’t sure where to go, your campus Title IX Coordinator can help point you in the right direction.

<b>On-Campus Resources</b>
<b>Title IX Coordinators</b>
<i>See pages 6–7 of this policy for more information about your campus Title IX Coordinator and the help they can provide.</i>
<b>Campus Public Safety</b>
<i>Available 24/7 at New Rochelle campus and during campus hours at Bronx campus</i>
<b>Counseling Services</b>
<i>Staff psychologist at New Rochelle campus offering therapy, workshops, group sessions, and referrals to off-campus counseling services.</i>
<b>Student Services Office</b>
<i>Offers academic advising, career services, mentoring, academic accommodations, class schedule changes, and other services.</i>
<b>Student Health &amp; Wellness Office</b>
<i>Offering health education, condom distribution, STD tests, info about health insurance, and referrals to off-campus health &amp; wellness services, including mental health, sexual health, immunizations, and substance abuse services.</i>
<b>Confidential Resource</b>
<i>See pages 7–8 of this policy for more information about Monroe College’s Confidential Resource and the help they can provide.</i>

## Off-Campus Resources

### New Rochelle campus

#### My Sister's Place

1 Water Street, White Plains, NY 10601

[www.mspny.org](http://www.mspny.org)

Crisis Hotline: 1-800-298-7233

*Provides confidential emergency shelter, safety planning, counseling services, legal services, child care services, pet shelter, and support and referrals to many other services and resources for victims and survivors of domestic abuse, sexual assault, and human trafficking.*

#### Westchester County District Attorney – Victim's Justice Center

111 Dr. Martin Luther King Jr. Blvd., White Plains, NY 10601

914-995-3300

*Provides resources and support to survivors of sexual assault, domestic violence, and stalking, including confidential counseling services, crisis intervention, information about and assistance with the court process, financial assistance, and referrals for other services.*

Also see Westchester D.A.'s *Crime Victim's Rights* booklet:

[http://www.westchesterda.net/images/stories/pdfs/OVSRights\\_2011.pdf](http://www.westchesterda.net/images/stories/pdfs/OVSRights_2011.pdf)

#### Westchester Hispanic Coalition

46 Waller Avenue, White Plains, NY 10605

Hotline (24/7): 1-844-926-6627 (bilingual English/Spanish)

*Provides confidential counseling and advocacy services for victims of sexual assault and domestic violence, including crisis intervention, emotional support, accompaniment to forensic exams and court proceedings, legal services, and referrals for other important services.*

*Also provides specialized legal services for family issues (such as orders of protection, divorce, and custody) and immigration issues.*

### Bronx campus

#### Safe Horizon @ BronxWorks / McLaughlin Community Center

80 East 181<sup>st</sup> Street, Basement Level, Bronx, NY 10456

Helpline: 1-855-234-1042

Visit [www.safehorizon.org/find-us](http://www.safehorizon.org/find-us) to see other locations in the Bronx and the rest of NYC  
*Provides confidential crisis counseling, safety planning, assistance finding shelter, referrals to legal services, and information about other important resources.*

#### New York City Alliance Against Sexual Assault

[www.svfreenyc.org](http://www.svfreenyc.org)

Hotline: 212-514-7233

*Provides resources and support to survivors of sexual assault, including confidential counseling services, advocacy services, and referrals.*

#### NYC Anti-Violence Project

116 Nassau Street, 3<sup>rd</sup> Floor, New York, NY 10038

Hotline (24/7): 212-714-1141

*Provides services to LGBTQ and HIV-affected survivors of all forms of violence, including*

*intimate partner violence, sexual violence, and hate violence, including counseling services, advocacy services, legal services, and more.*

**Bronx County District Attorney – Domestic Violence Unit**

198 E. 161<sup>st</sup> Street, Bronx, NY 10451

718-838-7280

*Provides criminal investigation and protection services for victims and survivors of sexual assault and intimate partner violence, including domestic abuse. Also provides crisis intervention and counseling services, advocacy services, and other support and assistance to victims, survivors, and their family members.*

These are only a brief listing of the resources available to you. You can find many more resources by dialing 2-1-1 or 3-1-1 for free, confidential help finding an extensive list of resources, including law enforcement & public safety assistance, legal services, hospitals that conduct sexual assault forensic exams, confidential counseling services, and more. 2-1-1 and 3-1-1 are available 24/7, and many of the resources to which they can refer you also are available 24/7, are confidential, and are low-cost or free of charge.

Supportive Measures, Protections, and Campus Accommodations

In addition to the above on-campus and off-campus resources, Monroe College is prepared to offer you certain supportive measures, protections, and reasonable campus accommodations. Below is a list of protections and campus accommodations that may be available, if appropriate. To request any of the below measures, protections, and/or accommodations, please contact your campus Title IX Coordinator. The Title IX Coordinator will then make the necessary arrangements, including coordinating with other campus offices as needed, in order to maintain your privacy. Upon request, both the accused and the reporting individual will have the opportunity to provide their perspective on the need for any interim measure or accommodation that affects him/her, the terms of such measure or accommodation, and the potential for modifying such measure or accommodation, and will be allowed to submit evidence in support of their view.

- Having the College issue a ‘no contact’ order against the accused individual
  - A ‘no contact’ order requires the accused to leave a public place where both the accused and the reporting individual are present. The accused is not allowed to contact or speak with the reporting individual. If necessary, the College may establish a schedule for the accused and the reporting individual to access College buildings and property at separate times. Violating the ‘no contact’ order could subject the accused to additional consequences and/or the involvement of law enforcement.
  - Upon request, both the accused and the reporting individual will have the opportunity to provide their perspective on the need for a ‘no contact’ order, the terms of any ‘no contact’ order issued, and the potential for modifying the ‘no contact’ order, and will be allowed to submit evidence in support of their view.
- Assistance from College officials in obtaining an order of protection or restraining order from law enforcement against an individual
  - Orders of protection and restraining orders are similar to ‘no contact’ orders, except that they are imposed by the local police, not by the College. If an accused individual

violates an order or protection or restraining order, they could be arrested. The College reserves the right to impose consequences on accused individuals who violate orders of protection and restraining orders, such as imposing additional conduct charges and/or subjecting the accused to interim suspension.

- Assistance from College campus security in calling on & assisting law enforcement in effecting an arrest when the accused individual violates an order of protection
- Having an accused individual subjected to interim removal or other appropriate interim measures when he/she poses an immediate threat to the health and safety of any individual or to the College community
  - Determinations of whether a student poses an immediate threat to the health and safety of the College community are made by Monroe College administration. In making such determinations, the College acts in good faith and takes into consideration:
    - The nature of the allegation in question
    - Subsequent behavior occurring after the allegation
    - The potential risk of harm or disruption to the campus community and the reporting individual
    - Other relevant factors, such as whether the alleged behavior represents an escalation in behavior from past incidents, the possession and/or use of a weapon, and whether alternatives to interim removal are available
  - When the threat posed implicates mental health issues, the student will be required to provide the College with documentation from an appropriate healthcare provider in order to return to campus. Additional safety precautions may also be taken where the College deems it necessary.
  - When certain crimes occur in certain areas on and/or near campus that represent a serious or continuing threat to the campus community, Monroe College is obligated under federal law to issue a timely warning, in order to protect the safety of others. Crimes triggering a timely warning might include, for example, a rapist who is still present on campus. When a timely warning is issued, the warning will never identify any victims or reporting individuals.
- Obtaining reasonable and available interim measures and accommodations for changes in an individual's academics, housing, employment, transportation, or other arrangements in order to help ensure safety, prevent retaliation, and avoid a hostile environment, such as:
  - Changes to class schedule
  - Changes to work schedule
  - Changes in dormitory assignment
  - Assistance finding alternate transportation
  - Assistance finding alternate housing
- Other protections, services, and accommodations that may be appropriate

## **Section 7: Disciplinary Process for Students who Commit Sexual Misconduct**

When a student commits or is believed to have committed sexual misconduct – whether committed against another student, other member of the campus community, or non-member of the campus community – the student will likely face student conduct charges and be subjected to Monroe College’s **Formal Disciplinary Process**, which is described below. In certain cases, the College’s **Informal Resolution Process**, described on page 28, may also be available to the parties in place of using the Formal Disciplinary Process, when all involved parties mutually agree and so long as the Title IX Coordinator deems it appropriate.

Reports of potential and actual violations of the this policy, as listed and described in **Prohibited Behavior** in **Section 4**, will be processed as follows. All written notifications referenced below will be provided by Monroe College officials to students via the college’s email system.

### Reporting

Monroe College has designated Title IX Coordinators who are responsible for receiving reports and complaints of sex discrimination and sexual misconduct, including but not limited to sexual harassment, sex assault, stalking, and relationship violence. The Title IX Coordinator accepts reports from both students and employees, as well as from third parties. For students who are under age 18, students’ parents (or legal guardians) are entitled to submit an incident report on their behalf. For students who are aged 18 or older, Monroe College will accept reports from parents/guardians, however, the College is limited to communicating information to parents/guardians pertaining to student disciplinary matters only to the extent authorized by the student and/or as authorized by law.

Individuals have several options for reporting an incident of sexual misconduct – see **How to Report Incidents of Sexual Misconduct** in **Section 5** of this policy for more details. All submitted reports of sexual misconduct will be reviewed by the Title IX Coordinator.

### Investigation

If appropriate, the Title IX Coordinator will conduct an investigation into the incident reported. Students who have reported an incident of sexual misconduct – whether done so privately, confidentially, or anonymously – have the option of requesting that the College not conduct an investigation; however, under certain circumstances, Monroe College may determine that an investigation is necessary to protect the health and safety of other students. When the College determines that an investigation is necessary, the student who submitted the incident report will be notified in writing. Students who have anonymously submitted a report regarding an incident of sexual misconduct should be aware that their anonymity may inhibit Monroe College’s ability to conduct a full investigation of the incident and/or communicate with the student regarding actions taken.

Any investigation conducted will be done so in a fair, impartial, thorough, and timely manner by appropriately trained individuals. Prior to commencing an investigation, the Title IX Coordinator

will issue written notice to the accused individual (and to the reporting individual, if known) stating the allegation made.

If, upon completion of the investigation, the Title IX Coordinator determines that a violation of Monroe College's Sexual Misconduct Policy has occurred, the Title IX Coordinator will initiate the College's Formal Disciplinary Process against the accused individual, unless the Title IX Coordinator has otherwise determined that the Informal Resolution Process would be an appropriate and effective method for addressing the misconduct in question.

If the Title IX Coordinator determines that pursuing the College's Formal Disciplinary Process is not warranted, the Title IX Coordinator will issue simultaneous written notification to both the accused individual and the reporting individual (if known) stating the reason for dismissal of the complaint. Complaints (or any portion or allegation comprising a complaint) may be dismissed by the Title IX Coordinator for reasons including (but not limited to): (i) withdrawal of the complaint (or any portion or allegation comprising a complaint) by the reporting individual; (ii) lack of College jurisdiction over the accused individual due to non-enrollment, non-employment, or other non-affiliation between the College and the individual; (iii) specific circumstances that prevent the College from gathering evidence sufficient to reach a determination regarding the complaint or the allegations therein.

#### Notification of Student Conduct Charges

The Title IX Coordinator will file student conduct charges against the accused student and schedule a Student Conduct Hearing on the alleged violation, to be held at a campus location and date determined by the Title IX Coordinator. When the Title IX Coordinator files student conduct charges against a student, the Title IX Coordinator will promptly notify such student in writing of the specific violation in question, the date on which the violation allegedly occurred, possible consequences and/or sanctions against the student for such violation, information regarding how the student can dispute the violation alleged (including the date, time, and location of a Student Conduct Hearing at which the student will be entitled to present evidence), and what (if any) temporary measures will be imposed upon the student while the Student Conduct Hearing is in progress (e.g., temporary removal). The reporting individual (if known) will similarly receive written notice with this same information. The date selected by the Title IX Coordinator will be timely in that it will provide an accused student a reasonable amount of time to prepare for the Student Conduct Hearing while also not constituting an unreasonable delay in resolving the charges. When an alleged violation involves more than one accused student, or when more than one violation is alleged to have been committed by a student, the Title IX Coordinator may determine, in his/her discretion, to schedule separate Student Conduct Hearings, as appropriate. The written notices will also notify the accused student and reporting student of their right to be accompanied at the Student Conduct Hearing by an advisor of choice.

#### Formal Disciplinary Process

Monroe College's Formal Disciplinary Process consists of a Student Conduct Hearing at which all involved individuals will have an opportunity to state their version of the alleged incident, present

evidence, and share testimony from themselves or witnesses. Students are entitled to appeal the outcome of the Student Conduct Hearing, if desired. All individuals designated by Monroe College to implement its Formal Disciplinary Process – including but not limited to the Title IX Coordinator, panel of decisionmakers, and other relevant officials – are appropriately trained in adjudicating sexual misconduct matters and the College’s policies and procedures. Either party is entitled to request remote attendance at a hearing via virtual technology; the technology used must enable all hearing participants to see, hear, and speak in real-time. If the accused student fails to or declines to attend the Student Conduct Hearing, the Student Conduct Hearing will be held without the accused student present and the panel may reach a decision of ‘responsible’ and impose consequences and/or sanctions even in the accused student’s absence.

### Student Conduct Hearing

The Student Conduct Hearing will be conducted in a fair, impartial, and thorough manner. The Student Conduct Hearing will be presided over by a Hearing Panel comprised of impartial individuals selected by the Title IX Coordinator. At the Student Conduct Hearing, the Title IX Coordinator is responsible for stating the allegations, stating the policy violation in question, and presenting evidence and findings from the investigation conducted that the accused student did commit the policy violation in question. Reporting individuals are entitled to (but are never required to) attend or participate in a Student Conduct Hearing. Reporting individuals should be aware, however, that any refusal to participate may impact the ability of the Hearing Panel to reach a decision.

All accused students are entitled to a presumption of ‘not responsible’ (not guilty), and all processes will be conducted in a fair, impartial, thorough, and timely manner. The Title IX Coordinator, or another designated official, will present the College’s case, including a statement of the allegations at hand, the College’s investigatory findings, the specific policy provision the alleged conduct violates, and any relevant testimony and/or evidence. When the Title IX Coordinator has concluded the case presentation, the accused individual will have an opportunity to present his/her version of events, including their own testimony, testimony by witnesses, and other evidence. If the reporting individual has elected to participate in the hearing, the reporting individual will then have the option (but is not required) to present a statement of his/her own, and may present any additional testimony or evidence that has not already been presented. Once the Title IX Coordinator and the parties have all made their presentations, the parties are entitled to cross-examine each other and/or any witnesses who testified, if desired. Once any cross-examination is complete, the Title IX Coordinator will announce the conclusion of the hearing and dismiss all parties and witnesses. The Title IX Coordinator will ensure that a full and fair record of the hearing has been preserved and will be maintained for the parties to reference.

The Hearing Panel will subsequently deliberate the matter (either upon conclusion of the hearing or at another reasonably prompt time). The panel will render a decision as to whether the accused student is ‘responsible’ (guilty) or ‘not responsible’ (not guilty) for the violation and will impose consequences and/or sanctions on an accused student found ‘responsible’, if appropriate. The panel will issue to the Title IX Coordinator a written report setting forth these determinations, as well as the panel’s rationale for such decisions. The Title IX Coordinator will then issue written notice to all parties simultaneously of the Student Conduct Hearing panel’s decision regarding the



accused student's responsibility and the imposed consequences/sanctions (if any), including the rationale in support of such consequences/sanctions. This written notice will be provided to the accused student in writing within five days of the Student Conduct Hearing. The reporting individual will receive a written copy of the same information on the same day as the accused student.

Both the accused individual (and the reporting individual, if participating in the Formal Disciplinary Process) are entitled to appeal a finding of responsibility and/or a sanction imposed (or both), if desired. In addition to the written notification of the panel's decision and the imposed consequences/sanctions (if any), any accused student found 'responsible' will also receive written notice regarding his/her right to appeal the panel's decision and/or any imposed consequences/sanctions. Likewise, the reporting individual will receive a written copy of the same information on the same day as the accused student.

An accused student found 'responsible' may commence his/her appeal by following the procedures described in the paragraphs titled 'Appeals Process' on the next several pages. An appeal may also be commenced by reporting individual (if they participated in the Formal Hearing Process) by following the same procedures. In the event an appeal is requested, the Student Conduct Hearing panel's decision will be protected from public release by the College until the Appeals Process is complete and final, unless the law requires otherwise; however, the students involved may choose whether or not to discuss or disclose the outcome of the Student Conduct Hearing. If a student does not commence an appeal within the required timeframe (i.e., 10 business days from receiving written notification of the Student Conduct Hearing panel's decision), then the Student Conduct Hearing panel's decision will be final.

### *Standard of Evidence*

When implementing the Formal Disciplinary Process, the College is determining whether an individual is "responsible" or "not responsible" for an alleged violation of College policies. At all times, the burden is on the College to establish that the alleged violation of this policy was committed by the accused student in question – this is not the responsibility of the reporting individual, nor is the burden on the accused student to prove that he/she did not do something. The standard of evidence required in both the Student Conduct Hearing and in the Appeal Hearing, if one is sought, is a preponderance of evidence. 'Preponderance of evidence' means that the relevant Hearing Panel must decide in favor of the party that, as a whole, has the stronger evidence that the violation was or was not committed, however slight the edge over the other party's evidence may be. 'Preponderance of evidence' is sometimes described as 'more likely than not' or '51% probability'. The evidence should be sufficient to incline a fair and impartial mind to one side of the issue over the other, but it is not necessary for that mind to be completely free from all reasonable doubt. 'Preponderance of evidence' is a different and lesser standard of evidence than that used in criminal proceedings; rather, it is the standard of evidence often used in civil court proceedings.

### *Cross-Examination*

Cross-examination cannot be conducted directly by the parties themselves – it must be conducted by a party’s advisor. Any questions asked during cross-examination must be considered by the Hearing Panel for relevance before the individual being examined may respond. In the event any party is not accompanied by an advisor for any portion of a hearing that involves cross-examination, Monroe College will provide an advisor of the College’s choice for the sole purposes of conducting cross-examination.

#### *Advisors*

Parties are entitled to be accompanied throughout hearing proceedings by an advisor of their choice – including but not limited to their parents, a faculty member, an attorney, or another trusted individual. Advisors may sit with parties during all portions of hearing proceedings, and parties may confer with their advisor before, during, and after proceedings. Advisors are permitted to directly participate in a hearing only during cross-examination; otherwise, advisors are not allowed to directly participate at any point during the proceedings. Any arguments or evidence presented during a hearing must be presented by the individual himself/herself. All participation by parties and their advisors will be subject to College rules for hearing procedures and decorum, as applicable. In the event a party cannot attend a proceeding or a portion thereof, the advisor is not allowed to attend or participate on the individual’s behalf.

#### *Qualifications*

All individuals designated by Monroe College to implement its Formal Disciplinary Process and/or who are otherwise involved throughout the Formal Disciplinary Process – including but not limited to the Title IX Coordinator, the hearing panel and/or appeal panel, and other relevant officials – are appropriately trained in adjudicating sexual misconduct matters and the College’s policies and procedures. All such individuals are similarly trained to serve in an impartial manner without bias or conflicts of interest. Any concerns regarding impartiality should be discussed with the Title IX Coordinator (or, alternately with \_\_\_\_).

#### *Recordkeeping*

A full and fair record of the Student Conduct Hearing will be preserved and maintained by the College for seven years. For all hearings, the College is required to create either an audio-visual record or a transcript of proceedings. Parties are entitled to inspect and review their hearing records, subject to reasonable limitations by the College as to time and nature of access.

#### Appeals Process

Any student found ‘responsible’ by a Student Conduct Hearing panel may appeal the panel’s decisions, including its determination of responsibility and/or the consequences/sanctions

imposed. An appeal may also be requested by the individual who reported the incident and/or was subjected to the alleged sexual misconduct.

If a student wishes to appeal the decision of the Student Conduct Hearing panel, whether in regard to its determination of responsibility or its imposed consequences/sanctions, the student must submit a written request for an appeal to the Title IX Coordinator within 10 business days of receiving written notification of the panel's decision. The written request for appeal must include a brief statement of whether the student objects to the Student Conduct Hearing panel's determination of responsibility, the imposed consequences/sanctions, or both, as well as include a brief statement of the student's argument(s) as to why the Student Conduct Hearing panel's determination of responsibility and/or imposed consequences/sanctions were inappropriate. Upon receiving the student's written request for appeal, the Title IX Coordinator will schedule an Appeal Hearing, to be held in a timely manner at a campus location and date determined by the Title IX Coordinator. Upon scheduling the Appeal Hearing, the Title IX Coordinator will provide written notification of the location, date, and time to the students involved.

The Appeal Hearing will be conducted in a fair, impartial, and thorough manner. The Appeal Hearing will be presided over by a panel of impartial individuals selected by the Title IX Coordinator. No individual who served on the Student Conduct Hearing panel is allowed to serve on the Appeal Hearing panel. The panel will hear all arguments presented in regard to whether the Student Conduct Hearing panel's decisions were appropriate. After all arguments have been presented, the Appeal Hearing panel will render a decision on the appealed issues and, if appropriate, impose revised consequences/sanctions on a student. Within 10 days of the Appeal Hearing, the students involved will receive written notification of the Appeal Hearing panel's decision and the rationale for such decision. The Appeal Hearing panel's decisions are final and are not subject to further appeal.

#### Possible Sanctions

The following possible sanctions may be imposed as a result of a Student Conduct Hearing and/or an Appeal Hearing. The following outcomes may also be considered, along with other options not listed here, as potential outcomes for the Informal Resolution Process. In addition, if at any point (whether during or prior to any such hearing) a student's presence on campus creates a threat to the health, safety, and/or well-being of other students or other members of the College community, Monroe College reserves the right to immediately remove on an interim basis that student from campus until the time of the Student Conduct Hearing and/or Appeal Hearing.

The following list of possible consequences/sanctions is not exhaustive, and these consequences/sanctions may be imposed singularly or in any combination. Different and/or additional consequences or sanctions may be imposed by a Student Conduct Hearing panel and/or Appeal Hearing panel as the panel members may deem appropriate.

- No Consequences/Sanctions: Where the Student Conduct Hearing panel (and/or the Appeal Hearing panel, in the event an appeal is sought) determines that a student is 'not responsible', the student conduct charges against the student will be dismissed and the student's name will be cleared.

- Verbal Warning: A discussion with the student about the incident, with no written notification issued.
- Written Warning: A written notice to the student stating that his/her conduct is in violation of College regulations and that the continuation of said conduct during a stated period of time may be cause for more serious disciplinary action, such as community service, probation, or suspension.
- Counseling and/or Training: A requirement that a student undergo appropriate counseling and/or training in order to remain a member of the College community.
- Restitution: Financial reimbursement for damages to property.
- Community Service: A stated number of hours, set in writing, of donated service commensurate with the conduct violation.
- ‘No Contact’ Order: An order from the College requiring the student to stay away from the victim for a stated period of time. Students’ academic schedules may also be amended.
- Disciplinary Probation: A stated period of time, set in writing, during which the student is expected to demonstrate appropriate conduct as a member of the College community. Failure to demonstrate appropriate conduct may subject the student to further consequences/sanctions, such as community service and/or suspension.
- Residence Hall Suspension: A stated period of time, set in writing and not to exceed one academic year, during which the student is excluded from living in and/or visiting the campus residence halls. Upon the expiration of the suspension period, the student may be subjected to probation period during which the student is expected to demonstrate appropriate conduct as a member of the College community. During residence hall suspension, a student may or may not also be concurrently suspended from classes and/or campus activities.
- Disciplinary Suspension: A stated period of time, set in writing and not to exceed one academic year, during which the student is excluded from classes and/or campus activities. Upon the expiration of the suspension period, the student may be subjected to a probation period during which the student is expected to demonstrate appropriate conduct as a member of the College community. When the student’s punished conduct involves certain types of violence, this sanction automatically results in a Transcript Notation sanction.
- Residence Hall Expulsion: Permanent termination of privileges to live and/or visit the campus residence halls.
- Disciplinary Dismissal from the College (Expulsion): Permanent termination of status as a student of the College. When the student’s punished conduct involves certain types of violence, this sanction automatically results in a Transcript Notation sanction.
- Transcript Notation: Where a student is found ‘responsible’ for a violation involving certain types of violence, including sexual violence such as rape or sexual assault, and is then subjected to either suspension or expulsion from the College, the student’s transcript will automatically receive a notation stating “Suspended after a finding of responsibility for a Code of Conduct violation” or “Expelled after a finding of responsibility for a Code of Conduct violation,” as appropriate. Where a student withdraws from the College while such charges are pending, the student’s transcript will receive a notation stating “Withdrew with conduct charges pending.” Transcript notations regarding expulsion, withdrawal, and suspension shall be permanent.

- Other consequences and/or sanctions as deemed appropriate by the Student Conduct Hearing panel and/or Appeal Hearing panel.

### **Informal Resolution Process**

There may be times when a reporting individual wishes to report certain types of sexual misconduct for action by Monroe College but does not wish to participate in the College's Formal Disciplinary Process (i.e., an investigation and, if appropriate, a hearing) or is not interested in the potential outcomes prescribed under the Formal Disciplinary Process. In these cases, the involved parties have the option of mutually agreeing to instead participate in the College's Informal Resolution Process, rather than the Formal Disciplinary Process. The Informal Resolution Process is only appropriate for certain types of misconduct, and the Title IX Coordinator reserves the discretion to deny any request to engage in the Informal Resolution as an alternative to the Formal Disciplinary Process; this determination is not subject to appeal. The Informal Resolution Process is never available for the following types of misconduct:

- Any allegation of a College employee sexually harassing a student
- Any allegations involving sexual assault
- Any allegation in which there is a grave, ongoing, imminent, and/or immediate threat of harm or safety risk to the campus or to any individual
- Any allegation for which the accused individual is a repeat offender
- Any allegation in which the alleged misconduct is sufficiently grave in nature that informal resolution would not be appropriate and/or would not be in accordance with the College's Title IX obligations, as determined in the judgment of the Title IX Coordinator
- Any instance in which one or more of the parties involved do not appear to be acting in good faith, as determined in the judgment of the Title IX Coordinator

Either party can propose that a matter be resolved through the Informal Resolution Process; no party is ever required to participate, and the process is only available if all involved parties voluntarily agree to participate. Each party will be required to provide their consent in writing. The involved parties may elect to participate in the Informal Resolution Process at any time, even if they have already moved forward with the Formal Disciplinary Process. Similarly, parties may choose to stop participating at any time up until the process officially concludes. The Title IX Coordinator may likewise determine at any time that the Informal Resolution Process is not an appropriate method for resolving a given matter and may instead require that the matter be resolved through the College's Formal Disciplinary Process; this determination is not subject to appeal.

The informal resolution process will be conducted by an impartial facilitator chosen by the College who is appropriately trained to handle sexual misconduct matters and engage in the method of resolution provided.

Informal resolution can take a variety of forms. Monroe College offers several options for informal resolution. Outcomes will vary depending on the type of informal resolution that is chosen. The parties must mutually agree on the type of informal resolution to be used.

- **Administrative Resolution:** If the accused individual chooses to accept responsibility for the alleged misconduct at any time, the College will administratively resolve the matter. Upon the admission of responsibility, the College will issue written notices to all involved parties simultaneously. Any sanctions and/or other remedies, as appropriate and consistent with College policies, will be decided by the Title IX Coordinator after all parties have been provided an opportunity to submit a written statement. Administrative resolutions may not be appealed.
- **Mediation:** Mediation may be appropriate when the involved parties disagree or have conflicting opinions about certain things, and would benefit from the assistance of a mediator who can help identify points of agreement, implications of individual actions, and potential appropriate remedies to address those actions. During mediation, the mediator facilitates or guides a discussion between the parties. If the parties are not comfortable meeting face-to-face, either individual may request “distance” mediation, in which case the facilitator will conduct separate meetings with the parties. Involved parties are welcome (but not required) to bring an advisor of their choice to mediation meetings. The mediation process will continue until the matter is satisfactorily resolved, or until the process is terminated by either the Title IX Coordinator, the facilitator/mediator, or one or more of the involved parties. If the mediation results in a satisfactory resolution, the facilitator and/or Title IX Coordinator will memorialize the agreement reached by the parties, at which point the informal resolution process is deemed concluded. The Title IX Coordinator will monitor the parties’ compliance with this agreement. In the event the process is terminated at any point by the Title IX Coordinator, or in the event any party violates the mediated agreement, the Title IX Coordinator will consider whether to take further action (and/or to refer to the Dean of Students or the Office of Human Resources, applicable, for further action) in accordance with the College’s Formal Disciplinary Process.
- **Restorative Justice:** A restorative justice conference may be appropriate when the primary goal is to repair harm and restore relationships between individuals after an incident or conflict has occurred. During a restorative justice conference, both parties come together to identify what harm has been caused and to collaboratively determine how the issue at hand might be resolved and repaired in a manner satisfactory to each individual. Restorative justice may not be appropriate for resolving all matters. In order to participate in restorative justice, the accused student will be required to accept responsibility for their actions and will be expected to express remorse for the harm that has been caused. The reporting student / victim must be willing to accept an apology offered by the accused student. Under the restorative justice process, the parties will meet until they reach a satisfactory solution, or until the process is terminated by either the Title IX Coordinator, the restorative justice conference facilitator, or one or more of the involved parties. If the parties reach a satisfactory solution, the facilitator and/or Title IX Coordinator will memorialize the agreement reached by the parties, at which point the informal resolution process is deemed concluded. The Title IX Coordinator will monitor the parties’ compliance with this agreed upon solution. In the event the process is terminated at any point by the Title IX Coordinator or facilitator, or in the event any party violates the agreed solution, the Title IX Coordinator will consider whether to take further action (and/or to refer to the Dean of Students or the Office of Human Resources for further action) in accordance with the College’s Formal Disciplinary Process.



## Section 8: Student Rights

The following rights are guaranteed to students by New York State’s “Enough Is Enough” law. Please read them carefully. If you have any questions, you can always ask your campus Title IX Coordinator. The rights listed in the Student Bill of Rights will also be discussed with you and/or provided to you when you disclose or report an incident of sexual misconduct to any Monroe College official, whether they are a confidential official or an official who can guarantee privacy.

### Student Bill of Rights

All students have the right to:

1. Make a report to local law enforcement and/or the State Police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the student conduct process and/or criminal justice process free from pressure by the college;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the college courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few college officials as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by the college, any student, the accused and/or their friends, family, and acquaintances within the jurisdiction of the college;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, or accused individual, throughout the student conduct process, including during all meetings and hearings related to such process; and
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or student conduct process of the college.

### Additional Rights

All reporting individuals are further advised of their right to:

- Notify College campus security, local law enforcement, and/or State Police;
- Have emergency access to a Title IX Coordinator or other College official trained in interviewing victims of sexual assault who will be available upon the first instance of disclosure by the reporting individual to provide information regarding options to proceed and, where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible; to explain that the criminal justice process utilizes different standards of proof and evidence and that any questions about whether a



specific incident violates New York State criminal laws should be addressed to law enforcement or to the local district attorney; and to explain whether he/she is able to offer the reporting individual confidentiality or privacy and to inform the reporting individual of other reporting options;

- Disclose confidentially the incident to College officials, who may offer privacy and/or confidentiality in accordance with applicable laws, as appropriate, and who can assist in obtaining services and resources for reporting individuals;
- Disclose confidentially the incident and obtain services from the State or local government;
- File a report of sexual assault, domestic violence, dating violence, and/or stalking; have the right to consult the Title IX Coordinator and other appropriate College officials for information and assistance; and have the right to have reports investigated in accordance with college policy, including the right that the reporting individual's identity will remain private at all times if the reporting individuals wishes to maintain privacy;
- Disclose, if the accused is an employee of the College, the incident to the College's Human Resources Officer (Kerry McLaughlin, [kmclaughlin@monroecollege.edu](mailto:kmclaughlin@monroecollege.edu) 646-393-8306) and/or have the right to request that a confidential or private employee assist in reporting the incident to the Human Resources Officer;
- Receive assistance from College officials in initiating legal proceedings in family court or civil court;
- Withdraw a complaint or withdraw from involvement in the College student conduct process at any time.

Monroe College will ensure that every student is afforded the following rights:

- The right to request that student conduct charges be filed against the accused in proceedings governed by New York State's "Enough Is Enough" law (Education Law 129-B) and the procedures established by the College in this policy book;
- The right to a process in all student conduct cases where a student is accused of sexual assault, domestic violence, dating violence, stalking, or other sexual misconduct that violates this policy, that includes, at a minimum:
  - notice describing the date, time, location, and factual allegations concerning the violation; reference to the specific policy provisions alleged to have been violated; and possible sanctions for the violation;
  - an opportunity to offer evidence during an investigation, and to present evidence and testimony at a student conduct hearing, where appropriate, and to have access to a full and fair record of any such hearing; and
  - access to at least one level of appeal of a determination before a panel that is fair and impartial and does not include individuals with a conflict of interest.
- Throughout proceedings involving such an accusation, the right for both the reporting individual and the accused:
  - to be accompanied by an advisor of choice who may assist and advise throughout the student conduct process, including during all meetings and hearings related to the process;
  - to 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 accused (including the right to a presumption that the accused is ‘not responsible’ until a finding of responsibility is made pursuant to New York State’s “Enough Is Enough” law and the college’s policies described in this policy book), and other issues including but not limited to domestic violence, dating violence, stalking, and sexual assault;

- to an investigation and student conduct process that is fair, impartial, and provides a meaningful opportunity to be heard, and that is not conducted by individuals with a conflict of interest;
- to have the College’s student conduct process run concurrently with a criminal justice investigation and proceeding, except where law enforcement requests a temporary delay in order to gather evidence;
- to review and present relevant available evidence in the case file or otherwise in the possession or control of the College;
- to exclude their own prior sexual history with persons other than the other party in the student conduct process and/or their own mental health diagnosis and treatment from admittance in the stage of College’s student conduct proceedings where responsibility is determined;
- to receive written advance notice of:
  - any meeting he/she is required or eligible to attend
  - any specific rule or law alleged to have been violated and in what manner
  - the consequences and/or sanctions that may be imposed as a result of the student conduct process; and
  - the determination of the student conduct hearing panel and the rationale for any consequences/sanctions imposed;
- to make an impact statement during the point of student conduct proceedings where appropriate consequences/sanctions are being determined;
- to be informed of the possible consequences/sanctions that may be imposed upon the outcome of the student conduct process; to simultaneous written notification of the outcome of the student conduct process, including any consequences/sanctions actually imposed; and the rationale for the consequences/sanctions actually imposed;
- to choose whether to disclose or discuss the outcome of the student conduct process; and
- to have all information obtained during the course of the student conduct process be protected from public release until the student conduct appeals panel makes a final determination (unless federal and/or State law requires otherwise).