

Monroe College Code of Conduct
Student Information
Federal Campus Sex Crimes Prevention Act
New York State Article 129-B

Campus Sex Crimes Prevention Act

The federal Campus Sex Crimes Prevention Act, enacted on October 28, 2000, went into effect October 28, 2002. The law requires institutions of higher education to issue a statement advising the campus community of where law enforcement agency information provided by a state concerning registered sex offenders may be obtained. It also requires sex offenders already 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, volunteers services or is a student. The New York State Division of Criminal Justice Services maintains the state's Sex Offender Registry, which contains information about individuals convicted of certain sex offenses. This information is available by calling 900-288-3838 or visiting www.criminaljusticestate.ny.us.

Definition of Affirmative Consent to Sexual Activity:

Affirmative consent is a 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.

- A. 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.
- B. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- C. Consent may be initially given but withdrawn at any time.
- D. 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.
- E. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- F. When consent is withdrawn or can no longer be given, sexual activity must stop.

Consent must be knowing, voluntary and mutual. Voluntary consent means that consent under coercion such as a threat of violence is not consent. Mutual means that all parties must consent. Consent can be given through words or actions so long as the word or action is clear regarding willingness to engage in the sexual activity. Whether through words or actions that clearly display consent, each party must affirmatively consent to participating in each sexual act or sexual contact. Consenting to one type of sexual act or contact is not blanket consent to any and all types of sexual contacts. Mutual consent is required for each and may be withdrawn at any time by either party. When consent is withdrawn, the activity must stop.

Drug and Alcohol Amnesty Policy

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 institution 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's officials or law enforcement will not be subject to Monroe 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.

Nothing in this section shall be construed to limit an institution's ability to provide amnesty in additional circumstances.

Students' Bill of Rights

All students have the right to:

1. Make a report to local law enforcement and/or 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 judicial or conduct process and/or criminal justice process free from pressure by the institution;
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 institution 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 institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. 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;
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, accused, or respondent throughout the judicial or 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 judicial or conduct process of the institution.

Sexual Assaults

Acts of sexual violence, assault or abuse such as rape, acquaintance rape or other forms of nonconsensual sexual activity are not tolerated at Monroe College. Such acts are criminal behaviors and create an environment contrary to the goals and missions of the College. It is important for members of the campus community to be aware that there can be serious legal consequences for certain sexual conduct. In a campus setting, sexual assault often occurs when one or both parties are under the influence of alcohol or other drugs. Therefore, it is important to understand that intercourse or other

sexual activity with a person who is unable to give free and full consent (e.g., because of intoxication, substance abuse, or intimidation) may constitute sexual assault or rape. Furthermore, the offender's use of a mind-altering substance does not in any way diminish his or her responsibility for abusive behavior. There are several measures that you can take to reduce your chances of being a victim of sexual assault. (See **Safety Tips**)

If you are the survivor of a sexual assault:

Your safety and well-being are of paramount importance. Survivors of sexual assault are encouraged to take the following actions immediately:

1. Go to a safe place.
2. Contact or have a friend contact the **Department of Public Safety at the Bronx Campus at 646-393-8276, or the New Rochelle Campus at 914-740-6854**. The Department of Public Safety will assist you in reporting the crime to the police and in getting medical and counseling services. Or, you can contact in **The Bronx: The Dove Program 212-305-2255**, or in **New Rochelle: Victims Assistance Services 914- 345-9111**.
3. Do not touch any evidence or straighten up the area where the assault occurred.
4. It is strongly recommended that you do not shower, bathe, douche, brush your teeth, use mouthwash, comb your hair or change your clothes, as these actions will destroy evidence of the attack.
5. It is strongly recommended that you go to a hospital emergency room. Medical evidence for use in a criminal prosecution of a criminal offense is collected at the hospital.
NOTE: You are **NOT** obligated to press charges just because you consent to this procedure; however, this evidence is very important should you later decide to prosecute. The Department of Public Safety or the police will provide transportation if needed. Bring a full change of clothing because the clothes you were wearing at the time of the attack may be kept as evidence.
6. Do not blame yourself.

Crisis Management Team

Crisis Management Team members respond to crisis incidents reported to the Department of Public Safety, including incidents of sexual abuse. Members of the team include the following or their designated representative:

1. Senior Vice President/Campus Dean
2. Director of Public Safety or designee
3. College Social Worker/Counselor
4. Director of Health Services
5. Senior Vice President/Dean of Student Services
6. Title IX Coordinator

A member of the Crisis Management Team will inform the survivor of the following:

1. Counseling services are available, both on and off campus.
2. Medical services are available off campus.
3. Options are available regarding reporting the case to the proper authorities, both on campus and to local police.
4. Assistance will be provided in notifying these authorities, if such assistance is needed.

Reporting Sex Offenses

To report a sexual offense, including domestic violence, dating violence, sexual assault, or stalking to Monroe College, please contact the Title IX Coordinator (Elizabeth Maybruch on the Bronx Campus at 646-393-8207, and/or Kelsey McCausland on the New Rochelle Campus, at 914-654-6849), the Department of Safety, or any administrator.

You have the option to notify local law enforcement to file a complaint against the perpetrator. **For the Bronx Campus, call the NYPD 52nd Precinct at 718- 220-5811, and for the New Rochelle Campus, call the New Rochelle Police Department 914-654-2300.** You may also file a complaint through Monroe College's Disciplinary Procedure (outlined below). You may pursue one, both, or neither of these options. Monroe personnel will assist you in contacting local law enforcement to file a complaint.

Regardless of whether you chose to report the crime to local law enforcement, you may request a change in academic, living, transportation, or working situations. Monroe will make accommodations if Monroe staff determines such accommodations are necessary and are reasonably available.

You may also request that Monroe issue a "no contact order" barring the alleged perpetrator from contacting you while an investigation is pending. Such order will be issued at the sole discretion of the Monroe. In addition, you may pursue a request for restraining orders, orders of protection, or similar lawful orders from civil or criminal court.

Preserving Evidence

Victims of sexual violence are reminded of the importance of preserving evidence necessary for the proof of an offense. Time is a critical factor for evidence collection. A victim should not shower or bathe, use the toilet, or change clothing if possible. If you have changed clothes, all clothing you were wearing at the time of the assault should be placed in a paper, not plastic, bag. If you have access to the location where the offense took place, do your best to leave the room as it was at the time the incident occurred.

Counseling Services

Counseling services are available through Monroe College and local support agencies. Monroe personnel will assist you in contacting the service of your choice.

The Monroe College social worker in New Rochelle may be contacted through the Office of Residence Life at 914-740-6442, and in the Bronx Campus at 646-393-8323.

Monroe College Grievance Procedure and Disciplinary Action

If you believe that you have been the victim of domestic violence, dating violence, stalking, or sexual assault, you may elect to pursue disciplinary action against the perpetrator or perpetrators through Monroe College's Title IX Grievance Procedure. The Title IX Grievance Procedure is designed provide a prompt, fair, and impartial investigation into alleged misconduct. The investigation is conducted by Monroe officials who receive annual training on issues related to domestic violence, dating violence, sexual assault, and stalking, and how to conduct an investigation and hearing that protects the safety of victims and promotes accountability.

Monroe College uses the preponderance of the evidence standard to resolve the complaint and determine if disciplinary action is warranted. The "preponderance of the evidence" standard requires that the evidence supporting each finding be more convincing than the evidence in opposition to it, meaning it must be more likely than not that the conduct at issue occurred.

Monroe College's disciplinary procedure includes the following steps:

1. Preliminary conference, counseling, and complaint review.
2. If the Title IX Coordinator initiates a Formal Investigation, an impartial investigator will be assigned to your complaint. The investigator will meet with both parties to collect statements, review evidence, and interview witnesses.
3. Both the accuser and the accused are entitled to the same opportunities to have others present during a proceeding related to the investigation, including the opportunity to be accompanied to any meeting by an advisor of their choice. Advisors are strictly prohibited from directly participating or responding on behalf of an individual in any meeting unless requested to do so directly by Monroe College staff.
4. The investigator will summarize critical evidence and outline their findings and any recommended action necessary to address and remedy the discrimination in an Investigation Report. A copy of the Investigation Report will be provided upon request to both parties, and both parties will have an opportunity to submit a written response to the Report.
5. The Investigation Report and any responses will be submitted to the Dean of Students to determine any appropriate disciplinary action.
6. Following a thorough review, the Dean of Students will simultaneously issue an Outcome Letter to both parties. Both parties will also be provided with information regarding their right to appeal the decision, any change to the outcome prior to the time that results become final and notification when such results become final.

Monroe College will complete its investigation and issue a determination within 60 calendar days after receiving notice of an allegation of sexual assault. The College may extend this timeframe for good cause. The College will take all reasonable efforts to apprise the parties of the progress of the investigation.

Retaliation Prohibited

Monroe College strictly prohibits retaliation against any individual who brings a good faith complaint under this policy or participates in any portion of a Title IX investigation. Retaliatory conduct violates not only College policy and Title IX, but may also violate state and federal law. If you believe you have experienced retaliation in relation to a Title IX investigation, contact the Title IX Coordinator immediately.

Sanctions

Individuals found to have engaged in sexual assault or harassment including rape, acquaintance rape, domestic violence, dating violence or stalking may be subject to probation, suspension, termination, or expulsion.

A Note Regarding Privacy and Confidentiality

Monroe College understands that claims of harassment or discrimination can be sensitive. If the complainant requests confidentiality or asks that the complaint or disciplinary action not be pursued against the alleged perpetrator, the College will take all reasonable steps to investigate and respond to the complaint consistent with the individual's request. Such steps may include, for example, offering counseling services, offering accommodations, providing the campus with additional training, and implementing other measures, independent of disciplinary action, that could assist the complainant or address the harassment.

However, confidentiality cannot be guaranteed in every situation. The College must weigh a request for confidentiality or request not to pursue a formal investigation and disciplinary action with its responsibility to provide a safe, non-discriminatory environment to all students and employees. Thus, in some cases, it may be necessary to explain to the individual that confidentiality may not be ensured, pursue an investigation, and take all necessary steps to end the alleged misconduct and prevent its recurrence.

The Title IX Coordinator will be the final authority on the degree to which Monroe can ensure confidentiality in a specific case. In weighing a request for confidentiality and whether to pursue a formal investigation of an incident, the Title IX Coordinator will consider the seriousness of the alleged harassment; the complainant's age; whether there have been other harassment complaints about the same individual; and any relevant state and federal laws including FERPA. In all cases, Monroe will take the steps necessary to ensure that records are maintained securely and in a manner that prevents inclusion of unnecessary information regarding the identity of the victim, to the extent permissible by law.

Survivor's Bill of Rights

1. Survivors have the right to be treated with dignity and seriousness by campus personnel.
2. Survivors of crimes against one's person have the right to be reasonably free from intimidation and harm.
3. College personnel shall be encouraged to inform survivors that they are not responsible for crimes against their person.
4. Survivors shall be made aware of existing counseling and other student services that are available, both on and off campus.
5. Survivors shall be entitled to the same support opportunities the College permits the accused in a campus disciplinary proceeding, which includes the opportunity to have others present during a disciplinary proceeding (see the Monroe College Code of Conduct for further information).
6. Both the survivor and the accused shall be informed of the outcome of any disciplinary proceeding brought alleging a sex offense. This includes the final determination of the proceeding and any sanction imposed against the accused. The sanctions that may be imposed are detailed in the Monroe College Code of Conduct
7. Any survivor who does not wish to remain in his or her present residence hall or class section may be granted a transfer to any available housing or class section, upon request, if reasonably available.

As noted above, Monroe will inform both the accuser and the accused of the outcome of any institutional disciplinary proceeding alleging a sex offense. Compliance with this paragraph does not constitute a violation of the Family Educational Rights and Privacy Act ("FERPA"). For the purposes of this paragraph, the outcome of a disciplinary proceeding means only the institution's final determination with respect to the alleged sex offense, and any sanction that is imposed against the accused.

Monroe will, upon request, disclose the results of any disciplinary hearing conducted by Monroe against a student who is the alleged perpetrator of a crime of violence or a non-forcible sex offense to the alleged victim or the alleged victim's next of kin if the alleged victim is deceased, upon written request of the alleged victim or the alleged victim's next of kin if the alleged victim is deceased.

Educational Programs

Primary Prevention and Awareness Programs to promote the awareness of rape, acquaintance rape, and other forcible and non-forcible sex offenses including dating violence, domestic violence, stalking, and sexual assault are conducted for entering students during New Student Orientation and Welcome Week, and in the residence halls throughout the academic year. These programs are open to the entire Monroe College community. Other programs on sexual assault are offered throughout the year. These programs inform the community that Monroe prohibits domestic violence, dating violence, sexual assault and stalking; provides the definition of these crimes as well as consent in reference to sexual activity in New York state; safe and positive options for bystander intervention; and information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks. The program also provides an overview of the institution's procedure for disciplinary action in the case of violations of the Center's sexual harassment and misconduct policy. In addition, the NYPD offers sexual assault education and information programs to students and employees upon request.

For additional information, please contact the Office of Residence Life 914-740-6459.

Bystander Intervention Options

- **Direct:** Address the situation directly. Use this when the person that you're trying to stop is someone who knows and trusts you. Consider other intervention methods when drugs or alcohol are being used.
- **Distract:** Distract either person in the situation to intervene. Interject yourself into a conversation where another person seems unsafe.
- **Delegate:** Find others who can help you to intervene in the situation. This might include asking a friend to distract one person in the situation while you distract the other to separate the individuals, or asking someone to go sit with them and talk.
- **Delay:** You may not be able to do something right in the moment. If you're feeling unsafe or if you're unsure whether or not someone in the situation is feeling unsafe, you may just want to check in with the person. In this case, you can combine a distraction technique by asking the person to use the bathroom with you or go get a drink with you to separate them and then asking them, "Are you okay?"

Please remember that your safety is of the utmost importance. Contact the Department of Public Safety if you do not feel comfortable intervening.

Bystander intervention resources:

Step Up: <http://www.stepupprogram.org>

Bystander Intervention Toolkit: <http://www.health.ny.gov/publications/2040.pdf>

Men Can Stop Rape: <http://www.mencanstoprape.org/Theories-that-Shape-Our-Work/bystander-intervention.html>

How to Report an Incident

All members of the campus community are encouraged to promptly report criminal incidents, emergencies, and suspicious activity, even when the victim of a crime does not elect, or is unable to make such a report. The Department of Public Safety is available to accept reports from students, staff and faculty 24 hours a day, seven days a week. The campus emergency numbers are as follows:

- **BRONX: 646-393-8495, 52nd Precinct: 718- 220-5811**
- **NEW ROCHELLE: 914-740-6854, New Rochelle Police Department: 914-654-2300**
- **911** and should be used for all fire, medical, and police emergencies. Monroe College makes

every effort to ensure that students and others can easily report criminal actions or emergencies. These reports can relate to incidents or emergencies that occur either on or off campus. In addition, incidents can be reported at the Department of Public Safety office located in the BRONX at King Hall or New Rochelle at Allison Hall or any location where a Public Safety officer is posted.

When reports are received, the following actions are taken:

- Students, faculty and staff are encouraged to report all crimes to the police and are assisted in doing so. Victims are referred to the appropriate offices/agencies on and off campus, including health/medical services and judicial affairs.
- A summary of reported incidents is sent to the Senior Vice President of Administration for review and follow-up with students.
- A summary of reported incidents concerning staff and faculty is sent to the appropriate administrative or academic departments for review and follow-up.

The Department of Public Safety distributes information on campus crime to the College community through the campus media. In the event of serious crimes on or off campus, such as robbery or assault, safety alerts are immediately distributed to the College community. In addition, the Department of Public Safety analyzes the reports, compiles crime statistics, and develops strategies to reduce criminal incidents and enhance preventive measures.

**Monroe College Code of Conduct
Institutional Requirements
Federal Campus Sex Crimes Prevention Act
New York State Article 129-B**

Response to Reports

1. Reporting individuals are advised of their right to:

- a. Notify university police or campus security, local law enforcement, and/or state police;
 - “(aa) notify proper law enforcement authorities, including on-campus and local police;
 - (bb) be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and
 - (cc) decline to notify such authorities.”
- b. Have emergency access to a Title IX Coordinator or other appropriate official trained in interviewing victims of sexual assault who shall be available upon the first instance of disclosure by a 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, and detailing that the criminal justice process 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. Such official shall also explain whether he or she is authorized to offer the reporting individual confidentiality or privacy, and shall inform the reporting individual of other reporting options;

c. Disclose confidentially the incident to institution representatives, who may offer confidentiality pursuant to applicable laws and can assist in obtaining services for reporting individuals;

d. Disclose confidentially the incident and obtain services from the state or local government;

e. Disclose the incident to institution representatives who can offer privacy or confidentiality, as appropriate, and can assist in obtaining resources for reporting individuals;

f. File a report of sexual assault, domestic violence, dating violence, and/or stalking and the right to consult the Title IX Coordinator and other appropriate institution representatives for information and assistance. Reports shall be investigated in accordance with institution policy and a reporting individual's identity shall remain private at all times if said reporting individual wishes to maintain privacy;

g. Disclose, if the accused is an employee of the institution, the incident to the institution's human resources authority or the right to request that a confidential or private employee assist in reporting to the appropriate human resources authority;

h. Receive assistance from appropriate institution representatives in initiating legal proceedings in family court or civil court; and

i. Withdraw a complaint or involvement from the institution process at any time.

2. You have the right to make a report to university police or campus security, 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.

3. Reporting individuals have information about resources, including intervention, mental health counseling, and medical services, which shall include information on whether such resources are available at no cost or for a fee. Every institution shall also provide information on sexually transmitted infections, sexual assault forensic examinations, and resources available through the New York state office of victim services, established pursuant to section six hundred twenty-two of the executive law.

4. All individuals are provided the following protections and accommodations:

a. When the accused or respondent is a student, the institution may issue a "no contact order" consistent with institution policies and procedures, whereby continued intentional contact with the reporting individual would be a violation of institution policy subject to additional conduct charges; if the accused or respondent and a reporting individual observe each other in a public place, it shall be the responsibility of the accused or respondent to leave the area immediately and without directly contacting the reporting individual. Both the accused or respondent and the reporting individual shall, upon request and consistent with institution policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of a no contact order, including potential modification, and shall be allowed to submit

evidence in support of his or her request. Institutions may establish an appropriate schedule for the accused and respondents to access applicable institution buildings and property at a time when such buildings and property are not being accessed by the reporting individual;

Both the accused or respondent and the reporting individual shall, upon request and consistent with institution policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of a no contact order, including potential modification, and shall be allowed to submit evidence in support of his or her request.

b. To be assisted by the institution's police or security forces, if applicable, or other officials in obtaining an order of protection or, if outside of New York state, an equivalent protective or restraining order;

c. To receive a copy of the order of protection or equivalent when received by an institution and have an opportunity to meet or speak with an institution representative, or other appropriate individual, who can explain the order and answer questions about it, including information from the order about the accused's responsibility to stay away from the protected person or persons;

d. To an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension;

e. To receive assistance from university police or campus security in effecting an arrest when an individual violates an order of protection or, if university police or campus security does not possess arresting powers, then to call on and assist local law enforcement in effecting an arrest for violating such an order, provided that nothing in this article shall limit current law enforcement jurisdiction and procedures;

f. When the accused or respondent is a student determined to present a continuing threat to the health and safety of the community, to subject the accused or respondent to interim suspension pending the outcome of a judicial or conduct process consistent with this article and the institution's policies and procedures. Both the accused or respondent and the reporting individual shall, upon request and consistent with the institution's policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of an interim suspension, including potential modification, and shall be allowed to submit evidence in support of his or her request;

g. When the accused is not a student but is a member of the institution's community and presents a continuing threat to the health and safety of the community, to subject the accused to interim measures in accordance with applicable collective bargaining agreements, employee handbooks, and rules and policies of the institution;

h. To obtain reasonable and available interim measures and accommodations that effect a change 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 institution's policies and procedures. Both the accused or respondent and the reporting individual shall, upon request and consistent with the institution's policies and procedures, be afforded 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, and

shall be allowed to submit evidence in support of his or her request.

5. Every student shall be afforded the following rights:

a. The right to request that student conduct charges be filed against the accused in proceedings governed by this article and the procedures established by the institution's rules.

b. The right to a process in all student judicial or conduct cases, where a student is accused of sexual assault, domestic violence, dating violence, stalking, or sexual activity that may otherwise violate the institution's code of conduct, that includes, at a minimum: (i) notice to a respondent describing the date, time, location and factual allegations concerning the violation, a reference to the specific code of conduct provisions alleged to have been violated, and possible sanctions; (ii) an opportunity 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; and (iii) access to at least one level of appeal of a determination before a panel, which may include one or more students, that is fair and impartial and does not include individuals with a conflict of interest. In order to effectuate an appeal, a respondent and reporting individual in such cases shall receive written notice of the findings of fact, the decision and the sanction, if any, as well as the rationale for the decision and sanction. In such cases, any rights provided to a reporting individual must be similarly provided to a respondent and any rights provided to a respondent must be similarly provided to a reporting individual.

c. Throughout proceedings involving such an accusation of sexual assault, domestic violence, dating violence, stalking, or sexual activity that may otherwise violate the institution's code of conduct, the right:

- i. For the respondent, accused, and reporting individual to be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process. Rules for participation of such advisor shall be established in the code of conduct.
- ii. 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 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 this article and the institution's policies and procedures, and other issues including, but not limited to domestic violence, dating violence, stalking or sexual assault.
- iii. To an investigation and 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.
- iv. To have the institution's judicial or conduct 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 ten days except when law enforcement specifically requests and justifies a longer delay.

- v. To review and present available evidence in the case file, or otherwise in the possession or control of the institution, and relevant to the conduct case, consistent with institution policies and procedures.
- vi. To exclude their own prior sexual history with persons other than the other party in the judicial or conduct process or their own mental health diagnosis and/or treatment from admittance in the institution disciplinary stage that determines responsibility. Past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the disciplinary stage that determines sanction.
- vii. To receive written or electronic notice, provided in advance pursuant to the college or university policy and reasonable under the circumstances, of any meeting they are required to or are eligible to attend, of the specific rule, rules or laws alleged to have been violated and in what manner, and the sanction or sanctions that may be imposed on the respondent based upon the outcome of the judicial or conduct process, at which time the designated hearing or investigatory officer or panel shall provide a written statement detailing the factual findings supporting the determination and the rationale for the sanction imposed.
- viii. To make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.
- ix. To simultaneous (among the parties) written or electronic notification of the outcome of a judicial or conduct process, including the sanction or sanctions.
- x. To be informed of the sanction or sanctions that may be imposed on the respondent based upon the outcome of the judicial or conduct process and the rationale for the actual sanction imposed.
- xi. To choose whether to disclose or discuss the outcome of a conduct or judicial process.
- xii. To have all information obtained during the course of the conduct or judicial process be protected from public release until the appeals panel makes a final determination unless otherwise required by law.

6. For crimes of violence, including, but not limited to sexual violence, defined as crimes that meet the reporting requirements pursuant to the federal Clery Act established in 20 U.S.C. 1092(f)(1)(F)(i)(I)-(VIII), institutions shall make a notation on the transcript of students found responsible after a conduct process that they were “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.” For the respondent who withdraws from the institution while such conduct charges are pending, and declines to complete the disciplinary process, institutions shall make a notation on the transcript of such students that they “withdrew with conduct charges pending.” Each institution shall

publish a 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.

7. Institutions that lack appropriate on-campus resources or services shall, to the extent practicable, enter into memoranda of understanding, agreements or collaborative partnerships with existing community-based organizations, including rape-crisis centers and domestic violence shelters and assistance organizations, to refer students for assistance or make services available to students, including counseling, health, mental health, victim advocacy, and legal assistance, which may also include resources and services for the respondent.

8. Institutions shall, to the extent practicable, ensure that students have access to a sexual assault forensic examination by employing the use of a sexual assault nurse examiner in their campus health center or entering into memoranda of understanding or agreements with at least one local health care facility to provide such a service.

9. Nothing in this article shall be deemed to diminish the rights of any member of the institution's community under any applicable collective bargaining agreement.

Campus Climate Assessments:

1. The institution shall conduct, no less than every other year, a campus climate assessment to ascertain general awareness and knowledge of the provisions of this article, including student experience with and knowledge of reporting and college adjudicatory processes, which shall be developed using standard and commonly recognized research methods.

2. The assessment shall include questions covering, but not be limited to, the following:

a. the Title IX Coordinator's role;

b. campus policies and procedures addressing sexual assault;

c. how and where to report domestic violence, dating violence, stalking or sexual assault as a victim, survivor or witness;

d. the availability of resources on and off campus, such as counseling, health and academic assistance;

e. the prevalence of victimization and perpetration of domestic violence, dating violence, stalking, or sexual assault on and off campus during a set time period;

f. bystander attitudes and behavior;

g. whether reporting individuals disclosed to the institution and/or law enforcement, experiences with reporting and institution processes, and reasons why they did or did not report;

h. the general awareness of the difference, if any, between the institution's policies and the penal law; and

i. general awareness of the definition of affirmative consent.

3. The institution shall take steps to ensure that answers to such assessments remain anonymous and that no individual is identified. Institutions shall publish results of the surveys on their website provided that no personally identifiable information or information which can reasonably lead a reader to identify an individual shall be shared.

4. Information discovered or produced as a result of complying with this section shall not be subject to discovery or admitted into evidence in any federal or state court proceeding or considered for other purposes in any action for damages brought by a private party against an institution, unless, in the discretion of the court, any such information is deemed to be material to the underlying claim or defense.

Options for Confidential Disclosure

1. In accordance with this article, the institution shall ensure that reporting individuals have the following:

a. Information regarding privileged and confidential resources they may contact regarding domestic violence, dating violence, stalking or sexual assault;

b. Information about counselors and advocates they may contact regarding domestic violence, dating violence, stalking, or sexual assault;

c. A plain language explanation of confidentiality which shall, at a minimum, include the following provision: "Even Monroe College offices and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information you provide to a nonconfidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution.";

d. Information about how the institution shall weigh a request for confidentiality and respond to such a request. Such information shall, at a minimum, include that if a reporting individual discloses an incident to an institution employee who is responsible for responding to or reporting domestic violence, dating violence, stalking, or sexual assault but wishes to maintain confidentiality or does not consent to the institution's request to initiate an investigation, the Title IX Coordinator must weigh the request against the institution's obligation to provide a safe, non-discriminatory environment for all members of its community. The institution shall assist with academic, housing, transportation, employment, and other reasonable and available accommodations regardless of reporting choices;

e. Information about public awareness and advocacy events, including guarantees that if an individual discloses information through a public awareness event such as candlelight vigils, protests, or other public event, the institution is not obligated to begin an investigation based on such information. The institution may use the information provided at such an event to inform its efforts for additional education and prevention efforts;

f. Information about existing and available methods to anonymously disclose including, but not

limited to information on relevant confidential hotlines provided by New York state agencies and not-for-profit entities;

g. Information regarding institutional crime reporting including, but not limited to: reports of certain crimes occurring in specific geographic locations that shall be included in the institution's annual security report pursuant to the Clery Act, 20 U.S.C. 1092(f), in an anonymized manner that identifies neither the specifics of the crime nor the identity of the reporting individual; that the institution 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; that a reporting individual shall not be identified in a timely warning; that the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, allows institutions 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; and that generally, the institution shall not share information about a report of domestic violence, dating violence, stalking, or sexual assault with parents without the permission of the reporting individual.

2. The institution may take proactive steps, such as training or awareness efforts, to combat domestic violence, dating violence, stalking or sexual assault in a general way that does not identify those who disclose or the information disclosed.

3. If the institution determines that an investigation is required, it shall notify the reporting individuals and take immediate action as necessary to protect and assist them.

4. The institution should seek consent from reporting individuals prior to conducting an investigation. Declining to consent to an investigation shall be honored unless the institution determines in good faith that failure to investigate does not adequately mitigate a potential risk of harm to the reporting individual or other members of the community. Honoring such a request may limit the institution's ability to meaningfully investigate and pursue conduct action against an accused individual. Factors used to determine whether to honor such a request include, but are not limited to:

a. Whether the accused has a history of violent behavior or is a repeat offender;

b. Whether the incident represents escalation in unlawful conduct on behalf of the accused from previously noted behavior;

c. The increased risk that the accused will commit additional acts of violence;

d. Whether the accused used a weapon or force;

e. Whether the reporting individual is a minor; and

f. Whether the institution possesses other means to obtain evidence such as security footage, and whether available information reveals a pattern of perpetration at a given location or by a particular group.

Student Onboarding and Ongoing Education

1. The institution shall adopt a comprehensive student onboarding and ongoing education campaign to educate members of the institution's community about domestic violence, dating violence, stalking, and sexual assault, in compliance with applicable federal laws, including the Clery Act as amended by the Violence Against Women Act reauthorization of 2013, 20 U.S.C. 1092(f).

2. Included in this campaign shall be a requirement that all new first-year and transfer students shall, during the course of their onboarding to their respective institution, receive training on the following topics, using a method and manner appropriate to the institutional culture of each institution:

a. The institution prohibits sexual and interpersonal violence and will offer resources to any victims and survivors of such violence while taking administrative and conduct action regarding any accused individual within the jurisdiction of the institution;

b. Relevant definitions including, but not limited to, the definitions of sexual assault, domestic violence, dating violence, stalking, confidentiality, privacy, and consent;

c. Policies apply equally to all students regardless of sexual orientation, gender identity, or gender expression;

d. The role of the Title IX Coordinator, university police or campus security, and other relevant offices that address domestic violence, dating violence, stalking, and sexual assault prevention and response;

e. Awareness of violence, its impact on victims and survivors and their friends and family, and its long-term impact;

f. Bystander intervention and the importance of taking action to prevent violence when one can safely do so;

g. Risk assessment and reduction including, but not limited to, steps that potential victims, perpetrators, and bystanders can take to lower the incidence of violations, which may contain information about the dangers of drug and alcohol use, including underage drinking and binge drinking, involuntary consumption of incapacitating drugs and the danger of mislabeled drugs and alcohol, the importance of communication with trusted friends and family whether on campus or off campus, and the availability of institution officials who can answer general or specific questions about risk reduction; and

h. Consequences and sanctions for individuals who commit these crimes and code of conduct violations.

3. The institution shall train all new students, whether first-year or transfer, undergraduate, graduate, or professional.

4. The institution shall use multiple methods to educate students about violence prevention and shall share information on domestic violence, dating violence, stalking and sexual assault prevention with parents of enrolling students.

5. The institution shall offer to all students general and specific training in domestic violence, dating violence, stalking and sexual assault prevention and shall conduct a campaign that complies with the Violence Against Women Act, 20 U.S.C. 1092(f), to educate the student population. They shall, as appropriate, provide or expand specific training to include groups such as international students, students that are also employees, leaders and officers of registered or recognized student organizations, and online and distance education students. They shall also provide specific training to members of groups that the institution identifies as high-risk populations.

6. The institution shall require that each student leader and officer of student organizations recognized by or registered with the institution, as well as those seeking recognition by the institution, complete training on domestic violence, dating violence, stalking, or sexual assault prevention prior to receiving recognition or registration, and each institution shall require that each student athlete complete training on domestic violence, dating violence, stalking, or sexual assault prevention prior to participating in intercollegiate athletic competition.

7. The institution must regularly assess programs and policies established pursuant to this article to determine effectiveness and relevance for students.

Reporting Aggregate Data to the Department

Pursuant to subdivision (i) of rule three thousand sixteen of the civil practice law and rules, in any proceeding brought against an institution which seeks to vacate or modify a finding that a student was responsible for violating an institution's rules regarding a violation covered by this article, the name and identifying biographical information of any student shall be presumptively confidential and shall not be included in the pleadings and other papers from such proceeding absent a waiver or cause shown as determined by the court. Such witnesses shall be identified only as numbered witnesses. If such a name or identifying biographical information appears in a pleading or paper filed in such a proceeding, the court, absent such a waiver or cause shown, shall direct the clerk of the court to redact such name and identifying biographical information and so advise the parties.

Privacy in Legal Challenges

1. The Institution shall annually report to the department the following information about reports of domestic violence, dating violence, stalking and sexual assault:

a. The number of such incidents that were reported to the Title IX Coordinator.

b. Of those incidents in paragraph a of this subdivision, the number of reporting individuals who sought the institution's judicial or conduct process.

c. Of those reporting individuals in paragraph b of this subdivision, the number of cases processed through the institution's judicial or conduct process.

d. Of those cases in paragraph c of this subdivision, the number of respondents who were found responsible through the institution's judicial or conduct process.

e. Of those cases in paragraph c of this subdivision, the number of respondents who were found not responsible through the institution's judicial or conduct process.

f. A description of the final sanctions imposed by the institution for each incident for which a respondent was found responsible, as provided in paragraph d of this subdivision, through the institution's judicial or conduct process.

g. The number of cases in the institution's judicial or conduct process that were closed prior to a final determination after the respondent withdrew from the institution and declined to complete the disciplinary process.

h. The number of cases in the institution's judicial or conduct process that were closed because the complaint was withdrawn by the reporting individual prior to a final determination.

2. The department shall create a reporting mechanism for institutions to efficiently and uniformly provide the information outlined in subdivision one of this section.

3. The department shall not release the information, as provided for in this section, if it would compromise the confidentiality of reporting individuals or any other party in the best judgment of the department.

4. Within one year of the effective date of this article, the department shall issue regulations in consultation with representatives from the state university of New York, city university of New York, and private and independent colleges and universities, and within two years of the effective date of this article the department shall issue a report to the governor, the temporary president of the senate, the speaker of the assembly and the chairs of the higher education committees in each house regarding the data collected pursuant to this section.