



# MILDRED ELLEY NEW YORK STATE SEXUAL MISCONDUCT POLICY

MILDRED ELLEY | 855 Central Avenue, Albany, NY 12206

09/01/2018

## I. Section 1: Statement of Purpose

Mildred Elley promotes an environment in which all members of the Community feel safe and respected. Acts of sexual misconduct impede the College’s educational mission and values, are harmful, and will not be tolerated by Mildred Elley. 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 also free to pursue action under this policy and through the criminal justice system. The College takes reports of sexual misconduct seriously and promises to promptly and fairly respond 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 pursuant 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.

## II. 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 Community members – including students, faculty, staff, other employees, and independent contractors – attending, working, or otherwise interacting with the college’s New York State campuses (“Community”). The College will address reports received from any individual, whether the person is affiliated with Mildred Elley, that a 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 Community who commit acts of sexual misconduct will be disciplined appropriately pursuant to College policy. This policy 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 may take against an individual who commits sexual misconduct may vary or be limited when that individual is not a member of the Community; however, whenever a member of the Community is subjected to sexual misconduct, regardless of the status of the individual who committed it, the College will continue to provide support, resources, and protection to the affected Community member. Mildred Elley will cooperate with and assist in law enforcement investigations whenever appropriate.

## III. Section 3: Terminology and Definitions

Certain definitions within this section contain very graphic language and may be disturbing to some individuals.

The following terms are used throughout this policy and may be heard during conversations with College associates 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 an action may constitute sexual misconduct even if not specifically mentioned in these definitions.

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. If you aren’t sure who your campus Title IX Coordinator is, a list of all campus Title IX Coordinators is provided in Section 3. 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.

- A. Sexual activity: Sexual activity has the same meaning as “sexual acts” and “sexual contact” as provided in U.S.C. 2246 (2) and U.S.C. 2246 (3). These terms are defined as follows:
  - i. Sexual act
    - a. Contact between the penis and the vulva or between the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight;

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- b. Contact between the mouth and the penis, mouth and the vulva, or the mouth and the anus.
  - c. Penetration, however slight, of the anal or genital opening of another person by a hand, or finger, or by any object, with the intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or
  - d. Intentional touching, not through clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
- ii. Sexual contact
- a. 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.

B. 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 do not 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:

1. Sexual assault is unwanted sexual activity and/or unwanted sexual contact that has not been Affirmatively Consented to by two or more of the participants, as defined in Section 3, including but not limited to:
  - i. Rape (as defined in accordance with the Federal Bureau of Investigation's Uniform Crime Reporting Program and listed in 34 C.F.R. §668.46) is the penetration, no matter how slight, of a person's vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
  - ii. Sexual coercion is 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.
  - iii. Fondling is touching the private body parts of another person, without that person's consent, for sexual gratification.
  - iv. Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - v. Statutory rape is sexual intercourse with a person who is under the legal age of consent.
2. Sexual exploitation is engaging intentionally in exploitive behavior including but not limited to:
  - i. Observing another person when that person is nude, in their undergarments, partially clothed, 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;
  - ii. 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, in their undergarments, partially clothed, or engaged in sexual activity without the knowledge and consent of the person depicted or recorded;
  - iii. Exposing one's genitals to another person without the consent of that person;
  - iv. Exposing another person to a sexually transmitted infection without the knowledge and consent of the person exposed;
  - v. Causing another person to become incapacitated with the intent of making that person vulnerable to non-consensual sexual activity or sexual exploitation.
3. Stalking is 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.

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4. Domestic violence is a felony or misdemeanor crime of violence, including but limited to acts of sexual violence, sexual abuse, physical abuse, or the threat of any such abuse, committed by:
    - i. a current or former spouse,
    - ii. a person with whom you share a child in common,
    - iii. a person with whom you live or have lived as a spouse or intimate partner, or
    - iv. any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
  5. Dating violence is violence committed by a person who has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with the consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relations.
  6. Gender-based harassment is 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.
  7. Hate crime is any crime that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim. For the purposes of this policy, the categories of bias include the victim's (actual or perceived): race, religion, gender, gender identity, sexual orientation, ethnicity, national origin, or disability.
  8. Sexual harassment is unwelcome conduct of a sexual nature that is sufficiently severe, persistent, or pervasive as to limit a student's ability to participate in or benefit from an education program or as to create a hostile or abusive educational environment, including but not limited to:
    - i. Unwelcome sexual flirtations or propositions for sexual activity.
    - ii. Unwelcome demands for our suggestions of sexual favors, including but not limited to repeated unwelcome requests for dates.
  9. Sexual exploitation is offering employment or educational benefits in exchange for sexual favors
    - i. 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
    - ii. Making graphic verbal comments about an individual's body or appearance
    - iii. Spreading sexual rumors
    - iv. 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.
    - v. Displaying or sending sexually suggestive drawings, images, pictures, written materials, cartoons, letters, notes or objects in the work/educational environment, regardless of medium.
    - vi. Cornering or blocking the normal movement of an individual.
  10. Sex discrimination and/or gender discrimination is 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.
- C. Retaliation is 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.
- i. Retaliation does not exist when an individual pursues actions in good faith in response to a report of

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- prohibited behavior, such as an accused individual offering evidence in their own defense.
- ii. Retaliation may be committed by an accused individual, a reporting individual, or any other person or group of persons.
- iii. Retaliation may exist event 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'.

D. Affirmative consent is an assessment whether alleged sexual activity was consensual. Consent must be affirmative to be considered consensual. 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 if 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:

- i. 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.
- ii. Consent is required regardless of whether either person involved in the act is under the influence of drugs and/or alcohol.
- iii. Consent may be initially given but withdrawn at any time.
- iv. 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.
- v. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- vi. When consent is withdrawn or can no longer be given, sexual activity must stop.

E. Title IX Coordinator: Each campus has a Title IX Coordinator. Each 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 Mildred Elley applies federal Title IX law and regulations. The College's Title IX Coordinator also coordinates the College's response to acts of sexual misconduct as required by New York State's "Enough Is Enough" law (Education Law 129-B).

1. The Title IX Coordinator has many responsibilities as part to ensure the College complies with the law. The Title IX Coordinator has the primary responsibility for:
  - i. Receiving complaints regarding sexual misconduct;
  - ii. Providing information to students about resources and support services available;
  - iii. Directing investigations into incidents of sexual misconduct;
  - iv. Issuing interim protective measures and arranging requested accommodations;
  - v. Initiating student conduct charges against students who have committed sexual misconduct;
  - vi. Ensuring the student conduct process is handled the right way;
  - vii. Overseeing student compliance with consequences and sanctions imposed through the student conduct process;
  - viii. Collecting statistics regarding the prevalence of sexual misconduct on campus;
  - ix. Conducting annual surveys of the Community regarding sexual misconduct; and
  - x. Overseeing education and training programs relating to sexual misconduct.
2. **The Title IX Coordinator is the person with whom you should file a formal report regarding sexual misconduct.** Reporting individuals can also privately tell the Title IX Coordinator about incidents of sexual misconduct even if you do not want to file a formal report. Reporting individuals can also disclose those incidents to other College associates, if you prefer.
  - i. All College associates – except those designated as confidential resources as described in this policy – are required to notify the Title IX Coordinator when a student discloses an incident of

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sexual misconduct to them 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 and in order to protect the safety of other people on campus. Those College associates would only provide the Title IX Coordinator with the necessary information, and the student's privacy would be maintained always. More information about privacy is provided in Section 3.

- ii. Other College associates are not required to notify the Title IX Coordinator when a student discloses an incident of sexual misconduct to them. These College associates are known as "confidential resources". Each New York State campus has at least one confidential resource with whom students can speak with confidentially. More information about confidentiality and a list of the confidential resources for each campus is provided in Section 3. 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.

3. The Title IX Coordinator for each location is as follows:  
Annette Jeffes, Albany Campus President, (518) 786-0855 X 1351,  
[ajeffes@mildred-elley.edu](mailto:ajeffes@mildred-elley.edu)

F. Confidentiality: Confidentiality can be offered by a College associate 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 associates. Each New York State campus has at least one College associate who can offer complete confidentiality to persons who want to confidentially report an incident of sexual misconduct. These individuals are known as Confidential Resources. While Confidential Resources generally honor requests for confidentiality, it is important that reporting individuals understand that a request for confidentiality may limit the college's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s). Although rare, there are times when the Confidential Resource may not be able to honor requests for confidentiality to provide a safe, non-discriminatory environment for all students. In those circumstances, all information would still be treated with the utmost privacy.

1. The Confidential Resource for each location is as follows:  
Brenda McClaine, Director of Academic Support and Advising, (518) 786-0855 X 1332, [bmccclaine@mildred-elley.edu](mailto:bmccclaine@mildred-elley.edu)
2. Examples of other individuals who can offer confidentiality:
  - i. Medical providers
  - ii. Lawyers providing legal advice
  - iii. Licensed mental health counselors, psychologists, and social workers
  - iv. Pastoral counselors (e.g., priests and other clergy members)
  - v. Local rape crisis centers and other confidential Community resources (see Section 6 for a list of local community resources near your campus, 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)
  - vi. While these off-campus counselors and advocates may maintain a victim's confidentiality by not informing the College, they may have other obligations under State law.
3. As noted above, when a reporting individual speaks to a campus Confidential Resource or an off-campus individual offering confidentiality, the College may be unable to investigate into the incident or pursue disciplinary action against the alleged perpetrator. In those circumstances, confidential counselors and advocates, including the campus Confidential Resource, will still assist the reporting individual in receiving other necessary protections and support, such as victim advocacy services, academic support or campus accommodations, disability services, health or mental health services, and changes to living, working, or course schedules.
4. At any time, a reporting individual who initially requests confidentiality may also decide to file a formal disciplinary complaint with the school and/or report the incident to campus security, law enforcement, and/or State Police, and have the incident fully investigated.
5. If the College determines that the alleged perpetrator(s) pose a serious and immediate threat to the Community, law enforcement may be called upon to issue a timely warning to the Community. Any such warning would not include the reporting individual's name or any information that identifies the reporting individual.

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G. Privacy: Privacy can be offered by a College associate 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 associates 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 College associate who is not considered a confidential resource, including your campus Title IX Coordinator, is considered a College associate who will guarantee privacy.

H. Accused: A person accused of sexual misconduct or another violation of this policy.

I. Bystander is a person who witnesses or otherwise 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.

1. Please encourage any victim of sexual misconduct to reach out for help. A list of on-campus and off-campus resources available to victims can be found in Section 6.

J. Reporting individual is any person who reports being a victim, survivor, witness, and other individual subjected to sexual misconduct.

## IV. Section 4: Prohibited Behavior

Mildred Elley is a place of academic learning, and its Community expects appropriate behavior. The following 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 investigating. In certain instances, the College is obligated by federal and/or New York State law to investigate. 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.

A. Prohibited Behavior:

1. Sexual misconduct, including but not limited to:
  - i. Rape
  - ii. Sexual assault
  - iii. Sexual harassment
  - iv. Stalking
  - v. Domestic violence
  - vi. Dating violence
  - vii. Unwanted sexual activity and/or contact
  - viii. Fondling
  - ix. Statutory rape
  - x. Gender-based harassment
  - xi. Sex discrimination
  - xii. Retaliation against someone who has made a complaint about sexual misconduct
  - xiii. Sexual exploitation
  - xiv. Sexual coercion
  - xv. Other sexual violence
  - xvi. Other sexually inappropriate behavior
2. Attempting to commit sexual misconduct
3. Aiding another person in committing sexual misconduct
4. Knowingly violating an interim measure or sanction imposed by the College pursuant to this policy, such

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as a ‘no contact’ order, suspension, or other measures and/or sanctions deemed appropriate under the circumstances

5. 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.

## V. Section 5: How to Report Incidents of Sexual Misconduct

In any instance of sexual misconduct, anyone in the Community has the right to report the incident to the 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.

### A. Disclosing vs. Reporting

Sometimes a person wants to tell someone about an incident of sexual misconduct without being sure whether they wish to see official action taken against the perpetrator. Such persons have the option to disclose (tell someone about) an incident without being obligated to file a formal report. Whether they choose to disclose or choose to formally report an incident, they have the right to be protected by the College from retaliation and the right to receive assistance and resources from the College.

The Title IX Coordinator is the person with whom formal reports regarding sexual misconduct should be filed. Upon receiving a formal report, the Title IX Coordinator will begin an investigation into the incident and the disciplinary process against the individual alleged to have committed the sexual misconduct, if that individual is a student of the College (or, if the individual is not a student, take other appropriate action). The Title IX Coordinator will also offer any student making a report assistance and resources.

Individuals 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 those Confidential Resources listed in Section 3 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 person’s permission before beginning an investigation and commencing the student disciplinary process. If the reporting individual 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 individual making the report would not be obligated to participate in the investigation or the disciplinary process. Whatever that person decides, the Title IX Coordinator will be willing to assist. More information about how to make this type of “confidential report” is provided in Section 3.

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

Incidents can also be disclosed to College associates other than the Title IX Coordinator, if the student prefers to do so. Some College associates are required to notify the Title IX Coordinator when an incident of sexual misconduct is disclosed to them, 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 associates 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 the information needed to investigate (if the student permits) and to ensure student safety. More information about privacy is provided in Section 3.

Other College associates are not required to notify the Title IX Coordinator when a report of an incident of sexual misconduct is disclosed to them. These College associates are known as “Confidential Resources”. Each campus has one Confidential Resource available to speak with confidentially. These College associates can help obtain assistance and resources without sharing confidential information with anyone else. Speaking to a Confidential Resource will not result in a formal report being made. More information about confidentiality and a list of the Confidential Resources for each campus is provided in Section 3.



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Incident reports can also be made to non-College officials, such as a local rape crisis center or a mental health counselor. A list of some local rape crisis centers and other 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 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.

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

In addition to the options described above about privately or confidentially reporting an incident of sexual misconduct, there are several other options for making a formal report. The Title IX Coordinator is the person with whom a formal report regarding sexual misconduct should be filed in those instances in which a person wants to make a formal report. Formal reports can be made to the Title IX Coordinator by making a report to the Title IX Coordinator in-person, via email. Your campus Title IX Coordinator's phone number and email address can be found in Section 3.

All reports of sexual misconduct made to all College associates 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.

1. Confidential reports can be made by telling the Title IX Coordinator that you do not want an investigation to occur, or by checking the boxed on the online incident report form labeled 'I do not want an investigation to occur.'
2. Important considerations regarding "confidential reports", whether made in-person or online:
  - i. 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 Resources listed in Section 3. As noted above, all information provided will be handled with the utmost privacy.
  - ii. When a reporting individual formally reports an incident of sexual misconduct but expresses that he/she does not wish for the College to investigate, the College will typically honor that request. However, sometimes the 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; and whether the institution possesses 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 the 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 will, to the extent possible, only share information with the people responsible for handling the College's response. The College will remain mindful of the victim's well-being and will take steps to protect the victim from retaliation or harm and work with the victim to create a safety plan. Retaliation against the victim, whether by students or College employees, will not be tolerated.
3. Anonymous reports can be made by not including your name or email address when submitting the online incident report form.
  - i. Important note regarding anonymous reports:
  - ii. Individuals who wish to anonymously report an incident should be aware that their anonymity may inhibit the 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, the College may not require a victim to participate in any investigation or disciplinary proceeding.

If sexual misconduct is committed by a non-member of the 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 your campus, see **Resources, Support Services, and Protection for Victims** in **Section 6** of this policy.

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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.

1. Make a report to law enforcement by Contacting the New York State Police at 1-844845-7269 *or by* Contacting local law enforcement in your area
2. **Albany Police** Non-Emergency Number: (518) 438-4000, Emergency: Call 911  
<https://www.albanyny.org/Government/Departments/PoliceDepartment.aspx>
3. **State Police** Contact your Local Troop Headquarters: Troop G: 518-783-3211, Emergency: Call 911,  
<https://www.troopers.ny.gov/>

## D. 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. Mildred Elley has adopted an amnesty policy for alcohol and/or drug use regarding incidents of sexual misconduct. The health and safety of every student at Mildred Elley is of utmost importance. Mildred Elley 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. Mildred Elley strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to College associates. 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 the College associates 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.

## E. Disclosures During Advocacy Events

Individuals occasionally disclose information regarding sexual misconduct during a public awareness and/or advocacy event and other similar public events. These events typically serve the purpose of encouraging 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 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.

## F. Campus Alerts

When certain crimes occur in certain areas on and/or near campus that represent a serious or continuing threat to the Community, the College is obligated under federal law to issue a timely warning, 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. See the Mildred Elley Annual Fire and Security Report for more information on the Campus Emergency Notification System. This report can be found on the Mildred Elley website.

## G. 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 include those reports in the College's Jeanne Clery Campus and Security Survey as well as in the College's Annual Fire and Security Report. This is merely an anonymous count without – identifying the reporting individual or the specifics of the crime.

## **VI. Section 6: Resources, Support Services, and Protection for Victims**

Mildred Elley is committed to supporting victims and survivors of sexual misconduct and sexual violence, regardless of when, where, or who committed the acts in question. In Section 3, the College has collected information and resources that may be helpful. If there are other resources needed, the College encourages reaching out to the campus Title IX Coordinator, who

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can help obtain those resources. If you are uncertain who your campus Title IX Coordinator is, a list of the New York campus Title IX Coordinators is provided in Section 3 of this policy. If you are in immediate danger at any point, call 911!

### A. Obtaining Immediate Medical Attention

If you need immediate medical attention because of rape, sexual assault, domestic violence, or dating violence, 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 each campus. 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 should 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 to preserve evidence and/or to receive protection from sexually transmitted infections or pregnancy. To best preserve evidence, you should seek an exam as soon as possible and avoid showering, washing, changing clothes, discarding clothes, combing hair, or otherwise altering your physical appearance until the exam is complete. Even if you do not want evidence collected, you should get examined by a doctor to minimize 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).

1. Albany Rape Crisis Center Harold L. Joyce Albany County Office Building 112, State St room 1118, Albany, NY 12207, 518-447-7100, 24 Hour Sexual Assault Hotline: 518-447-7716, [cvsvc@albanycounty.com](mailto:cvsvc@albanycounty.com)
2. NYS Coalition against Sexual Assault 28 Essex St, Albany, NY 12206, (518) 482-4222, <http://nyscasa.org/>
3. Capital District Psychiatric Center 75 New Scotland Ave, Albany, NY 12208, (518) 549-6000  
<https://www.omh.ny.gov/omhweb/facilities/cdpc/>
4. Mental Health Association of Albany County 677 Broadway, Albany, NY 12207 or 175 Green St., Albany, NY 12202, 518-447-4537, Psychiatric Crisis Services: 518-549-6500  
<http://www.albanycounty.com/Government/Departments/DepartmentofMentalHealth.aspx>
5. The Suicide Prevention Center of New York 150 Broadway #301, Menands, NY 12204, (518) 402-1156,  
<https://www.preventsuicideny.org/>

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

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

Individuals subjected to sexual misconduct 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. The College’s on-campus resource is the Title IX Coordinator. 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 for each Mildred Elley New York State campus, including counselors, advocates, and Community resources. If you have any questions or are uncertain where to go, your campus Title IX Coordinator can help you.

1. Albany Rape Crisis Center Harold L. Joyce Albany County Office Building 112, State St room 1118, Albany, NY 12207, 518-447-7100, 24 Hour Sexual Assault Hotline: 518-447-7716, [cvsvc@albanycounty.com](mailto:cvsvc@albanycounty.com)
2. NYS Coalition against Sexual Assault 28 Essex St, Albany, NY 12206, (518) 482-4222, <http://nyscasa.org/>

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3. Capital District Psychiatric Center 75 New Scotland Ave, Albany, NY 12208, (518) 549-6000  
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5. <http://www.albanycounty.com/Government/Departments/DepartmentofMentalHealth.aspx>
6. The Suicide Prevention Center of New York 150 Broadway #301, Menands, NY 12204, (518) 402-1156,  
<https://www.preventsuicideny.org/>

The above list is not exhaustive. You can find other resources by dialing 2-1-1 for free, confidential help finding an extensive list of resources, including law enforcement and public safety assistance, legal services, hospitals that conduct sexual assault forensic exams, confidential counseling services, and more. 2-1-1 is 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.

### C. Protections and Campus Accommodations

In addition to the above on-campus and off-campus resources, the College is prepared to offer you certain 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 protections and/or campus accommodations, please contact your campus Title IX Coordinator. Your Title IX Coordinator will then make the necessary arrangements, including coordinating with other campus offices as needed, to maintain your privacy. If you are not sure who your campus Title IX Coordinator is, a list of all campus Title IX Coordinators is provided in Section 3.

1. Issuing a 'no contact' order against the individual.
  - i. A 'no contact' order requires that if the accused, victim, or reporting individual observes each other in a public place, it will be the responsibility of the accused to leave area immediately and without directly contacting the reporting individual and/or victim. 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.
  - ii. Both the accused and the victim will, upon request and consistent with these policies, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of the 'no contact' order including potential modification. Each will be allowed to submit evidence in support of their request.
2. Assistance from College associates in obtaining an order of protection or restraining order from law enforcement.
  - i. Orders of protection and restraining orders are similar to 'no contact' orders, except that they are imposed by the local police instead of 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.
3. Assistance from College campus security in calling on and assisting law enforcement in effecting an arrest when the accused individual violates an order of protection.
4. When the accused individual or victim is a student determined to present a continuing threat to the health and safety of the Community, to subject the accused or victim to interim suspension pending the outcome of the disciplinary process consistent with the law and the college's policies and procedures. Both the accused or victim and the reporting individual shall, upon request and consistent with the college's policies and procedures, receive a prompt review, reasonable under the circumstances, of the need for and terms of an interim suspension, including potential medication. Each shall be allowed to submit evidence in support of his or her request.
5. Determinations of whether a student poses a continuing threat to the health and safety of the Community are made by individuals at each campus. In making such determinations, these individuals act in good faith and take into consideration:

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- i. Whether the accused individual has a history of violent behavior or is a repeat offender
  - ii. Whether the reporting individual is a minor
  - iii. The nature of the allegation in question
  - iv. Behavior subsequent to the allegation
  - v. The potential risk of harm or disruption to the Community and the reporting individual
  - vi. Other relevant factors, such as whether the alleged behavior represents an escalation of past incidents, the possession and/or use of a weapon and/or force, whether the College possesses other means to obtain evidence (e.g. security footage), whether available information reveals a pattern of perpetration at a given location or by a particular group and whether alternatives to interim suspension are available
6. When the threat posed implicates mental health issues, the student will be required to provide the College with documentation from an appropriate healthcare provider to return to campus. Additional safety precautions may also be taken where the College deems it necessary.
  7. When certain crimes occur in certain areas on and/or near campus that represent a serious or continuing threat to the Community, the College is obligated under federal law to issue a timely warning, 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.
  8. Obtaining reasonable and available interim measures and accommodations for changes in the individual's academics, housing, employment, transportation, or other applicable arrangements to help ensure safety, prevent retaliation, and avoid a hostile environment consistent with the college's policies and procedures.
  9. Students have the right to request a review of the need for and terms of any interim measure and/or accommodation implemented by the college.
  10. Other protections, services, and accommodations that may be appropriate.

## VII. Section 7: Disciplinary Process for Students Committing Sexual Misconduct

When a student commits or is believed to have committed sexual misconduct – whether committed against another student, other member of the Community, or non-member of the Community – the student will likely face student conduct charges and be subjected to the college's disciplinary process. 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. At all times, the burden of proof is on the College to establish that the alleged violation of this policy was committed by the student in question. 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 Code of Conduct committee must decide in favor of the party having, as a whole, the stronger evidence that the violation was or was not committed, however slight the edge 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.

### A. Student Conduct Committee Process

Reports of potential and actual violations of this policy, as listed and described in **Prohibited Behavior** in **Section 4** above, will be processed as follows. All written notifications referenced below will be provided by College associates to students in a manner that requires the Charged Student to acknowledge receipt, such as certified mail or email, return receipt requested or hand delivery with a signed receipt.

1. All submitted incident reports regarding incidents of sexual misconduct will be reviewed by the Title IX Coordinator.
2. A designee must be appointed if the Title IX Coordinator has a conflict of interest or bias against the accuser or the accused student.
3. If appropriate, the Title IX Coordinator (or their designee) will investigate the reported incident. Students reporting an incident of sexual misconduct – whether done so privately, confidentially, or anonymously – have the option of requesting that the College not investigate; however, under certain circumstances, the 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

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be aware that their anonymity may inhibit the College's ability to conduct a full investigation of the incident and/or communicate with the student regarding actions taken.

4. Investigations will be conducted in a fair, impartial, thorough, and timely manner. If it is determined during the investigation that a student may have violated the policies described in this policy, the Title IX Coordinator will file student conduct charges against the 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. 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 student, or when more than one violation is alleged to have been committed by a student, the Title IX Coordinator may, in his/her discretion, schedule separate Student Conduct Hearings.
5. 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 allegations made against them, the specific College policy violation committed by the student if the alleged facts are determined to have occurred, the time and 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 suspension). Where the alleged violation involves sexual misconduct, the written notice will also notify the student of their right to be accompanied at the Student Conduct Hearing by an advisor of their choice.
6. The Student Conduct Hearing will be conducted in a fair, impartial, and thorough manner. The Student Conduct Hearing will be presided over by a panel of impartial individuals selected by the Title IX Coordinator. The panel will hear all evidence presented on the alleged violation. During the Student Conduct Hearing, the accused student will have the opportunity to present evidence in their defense and to be accompanied by an advisor of their choice. Likewise, the individual who reported the incident and/or was subjected to the alleged sexual misconduct may, if they desire to present evidence of the incident and to be accompanied by an advisor of their choice.
7. After all evidence has been presented in the Student Conduct Hearing, the panel will render a decision within a reasonable amount of time 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. 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. A full and fair record of the Student Conduct Hearing will be preserved and maintained by the College for five years.
8. 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, will be provided to the accused student in writing within five (5) business days of the Student Conduct Hearing. Likewise, the individual who reported the incident and/or was subjected to the alleged sexual misconduct will also receive a written copy of the same information on the same day as the accused student.
9. In addition to the written notification of the panel's decision and the imposed consequences/sanctions (if any), an accused student found 'responsible' will also receive written notice regarding their right to appeal the panel's decision and/or imposed consequences/sanctions. Likewise, the individual who reported the incident and/or was subjected to the alleged sexual misconduct will also receive a written copy of the same information on the same day as the accused student.
10. An accused student found 'responsible' may commence their appeal by following the procedures described in the paragraphs titled 'Appeals Process' below. An appeal may also be initiated by the individual who reported the incident and/or was subjected to the alleged sexual misconduct 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 to discuss or disclose the outcome of the Student Conduct Hearing.
11. If a student does not commence an appeal within the required timeframe (i.e., ten business days from receiving

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written notification of the Student Conduct Hearing panel's decision). The Student Conduct Hearing panel's decision becomes final.

## B. Appeal 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, the student must submit a written request for an appeal to the Title IX Coordinator within ten business days (i.e., non-holiday weekdays) 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 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 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 can serve on the Appeal Hearing panel. The panel will hear all arguments presented in determining whether the Student Conduct Hearing panel's decisions were appropriate. After all arguments have been presented, the Appeal Hearing panel will render a decision in a timely manner on the appealed issues and, if appropriate, impose revised consequences/sanctions on a student. Within five (5) 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.

## C. Possible Sanctions

Sanctions may be imposed because of a Student Conduct Hearing and/or an Appeal Hearing. The College reserves the right to immediately suspend that student from campus until the time of the Student Conduct Hearing and/or Appeal Hearing. 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 Community.

The following list of possible sanctions is not exhaustive. Sanctions may be imposed singularly or in any combination. Other sanctions may be imposed by a Student Conduct Hearing panel and/or Appeal Hearing panel as the panel members may deem appropriate. Pursuant to New York State law, all students involved – both the accused and the victim – will receive written notice of any imposed sanction(s) and the rationale in support of such sanction(s).

1. No Sanction: A determination that a student is 'not responsible'. In these instances, the student conduct charges against the student will be dismissed and the student's name will be cleared.
2. Written Warning: A written notice that the student is violating or has violated institutional regulations.
3. Probation: A written reprimand for violation of specified regulations which places the student in a probationary status for a designated time. Violation of any College rules or policies during a probationary period may result in the imposition of additional and/or more severe disciplinary sanctions.
4. Discretionary Sanction: Work assignment, essay, or other discretionary assignment.
5. Loss of Privileges: Denial of specified privileges for a designated period.
6. Restitution: Financial reimbursement for damages to property.
7. Community Service: A stated number of hours, set in writing, of donated service.
8. Permanent 'No Contact' Order: A permanent 'no contact' order (effective for the duration of the student's enrollment at the college) requiring the student found 'responsible' to stay away from the student against whom he/she has committed misconduct. This may be imposed in addition to any interim 'no contact' order already issued.
9. College Suspension: Separation of the student from the College for a definite period, after which the student is eligible to return. Conditions for readmission may be specified. This sanction automatically results in a Transcript Notation sanction.

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10. Disciplinary Dismissal from the College (Expulsion): Permanent termination of status as a student of the College. This sanction automatically results in a Transcript Notation sanction.
11. Transcript Notation: 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)(i)(I) –(Viii), Mildred Elley will make a notation on the transcript of students found responsible after a disciplinary hearing 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,” as appropriate. For a charged student who withdraws from the College while such charges are pending, and declines to complete the disciplinary process, Mildred Elley will make a notation stating, “Withdrew with conduct charges pending.”
12. Other sanctions as deemed appropriate by the Student Conduct Hearing panel and/or Appeal Hearing panel.

Transcript notations regarding expulsion, suspension, and withdrawal shall be permanent. Suspended students may appeal such notation and seek its removal after one year after conclusion of the suspension. A student subjected to suspension or expulsion, and by extension subjected to an automatic transcript notation, may appeal this sanction by commencing the appeals process within the required timeframe (see paragraphs entitled ‘Appeals Process’ above). If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.

## VIII. 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. If you are not sure who your campus Title IX Coordinator is, a list of all campus Title IX Coordinators is provided in Section 3. 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 College associate, whether they are a confidential resource or an associate who can guarantee privacy.

### A. 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. Decide whether 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 associates 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.

### B. Additional Rights: All reporting individuals are advised of their right to:

1. Notify College campus security, local law enforcement, and/or State Police;
2. Have emergency access to a Title IX Coordinator or other College associates 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



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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;

3. Disclose confidentially the incident to College associate, 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;
4. Disclose confidentially the incident and obtain services from the State or local government;
5. 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 associate 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;
6. Disclose, if the accused is an employee of the College, the incident to the College's Head of Human Resources and/or have the right to request that a confidential or private employee assist in reporting the incident to the Head of Human Resources;
7. Receive assistance from College associates in initiating legal proceedings in family court or civil court;
8. Withdraw a complaint or withdraw from involvement in the College student conduct process at any time.

Every student is afforded the following rights:

1. 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;
2. 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:
  - i. 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;
  - ii. 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
  - iii. 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.
3. Throughout proceedings involving such an accusation, the right for both the reporting individual and the accused:
  - i. 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;
  - 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 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), and other issues including but not limited to domestic violence, dating violence, stalking, and sexual assault;
  - iii. 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;
  - iv. 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 to gather evidence;
  - v. to review and present relevant available evidence in the case file or otherwise in the possession or control of the College;
  - vi. 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

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- the stage of College's student conduct proceedings where responsibility is determined;
- vii. to receive advance written notice of:
  - a) any meeting they is required or eligible to attend
  - b) any specific rule or law alleged to have been violated and in what manner
  - c) the consequences and/or sanctions that may be imposed because of the student conduct process; and
  - d) the determination of the student conduct hearing panel and the rationale for any consequences/sanctions imposed;
- viii. to make an impact statement during the point of student conduct proceedings where appropriate consequences/sanctions are being determined;
- ix. 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 imposed; and the rationale for the consequences/sanctions imposed;
- x. to choose whether to disclose or discuss the outcome of the student conduct process; and
- xi. to have all information obtained during 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)