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**Interpreting Authority:** Director, HR; Dean of Students; Title IX Coordinator  
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### Sexual Misconduct Policy

## Policy Statement

Manhattanville College is a community of inquiry committed to promoting the free exchange of ideas and to providing a safe and nondiscriminatory environment for students and employees that recognizes the intrinsic worth and dignity of all individuals.

The College will not tolerate discrimination on the basis of sex or gender by any College employee, student, or third party. Any individual who has been the victim of an act of sexual violence or harassment is urged to make an official report, pursuant to which the College will initiate a prompt, thorough, and impartial investigation. This investigative process is designed to provide a fair and reliable determination as to whether the College's Non-Discrimination and Harassment and Sexual Misconduct policies have been violated. If so, the College will implement a prompt and effective remedy to end the discrimination, prevent its recurrence and address its effects.

The College's Non-Discrimination and Harassment and Sexual Misconduct policies are not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include controversial or sensitive subject matters protected by academic freedom. Academic freedom extends to topics that are pedagogically appropriate and germane to the subject matter of courses or that touch on academic exploration of matters of public concern.

## Entities Affected by the Policy

This Policy applies to all members of the Manhattanville College Community, which includes Board of Trustees, Faculty, Staff, students, and volunteers, as well as anyone doing business with or for the College.

Complaints brought to the College's attention involving non-members of the Community are also covered by these procedures.<sup>1</sup>

## Policy Background

This Policy is intended to provide the College Community with a clearly articulated set of behavioral standards, definitions and prohibited conduct. The procedures described below apply to all complaints involving Students, Staff, Faculty, as well as any other members of the College Community. Reports will follow a due process procedure specific to violations of the Sexual Misconduct Policy, which fall outside the jurisdiction of the Problem Resolution Procedures in the College Employee Handbook; the Code for Manhattanville Community, Section VII including applicable procedures in the College Faculty Handbook; the Grievance Procedures, Section IX, in the College Faculty Handbook; and II.F.ii (a) and (b), Review Committee in the College Faculty By-Laws.

This Policy supersedes all previous policies covering discrimination on the basis of sexual misconduct and is to be read in conjunction with the College's [Non-Discrimination and Harassment Policy](#) and the College's Grievance Policy for Addressing Formal Complaints of Sexual Harassment under the Title IX Regulations (Title IX Policy).

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<sup>1</sup> If the Respondent is not a member of the College Community, a Persona Non Grata (PNG) Status can be issued through Campus Safety. A PNG status prohibits the individual from coming onto campus. A violation of this order can result in a criminal trespassing arrest.

# Policy Procedures

## I. Jurisdiction

- This Policy applies to all members of the Manhattanville College Community, which includes Board of Trustees, Faculty, Staff, students (whether matriculated or not, whether taking courses on-campus or off) and volunteers, as well as anyone doing business with or for the College. College jurisdiction and discipline is not limited to conduct which occurs on College premises. Conduct which adversely affects the College Community or all those communities with which students interact in carrying out educational or professional activities, including but not limited to students pursuing field experiences and other course assignments, practica, internships, student teaching or supervised teaching, teaching under an internship certificate, research, and students attending professional conferences and education events, shall fall under the jurisdiction of this Policy. The College aims to especially protect those individuals, such as children, who are deserving of special protections.
- This policy does not apply to alleged behaviors that fall under the College's Title IX Policy. This policy applies to alleged behaviors that fall outside of the physical jurisdiction of the Title IX Policy as well as sexual harassment that meets the definition found in this policy that goes beyond that in the Title IX Policy.

## II. Reporting of Offenses

- Any student, employee or other member of the College Community who has experienced or witnessed prohibited conduct under this Policy, including any form of sexual harassment, sexual assault, dating/domestic violence or stalking, is encouraged to make a prompt report to law enforcement and/or to designated officials of the College. Individuals may also report to any College employee not specifically designated as a reporting option. An employee who receives such a report is required to share this information with the Title IX Coordinator to ensure the consistent and proper implementation of available College resources and resolution options.
- The College encourages all Community members to take reasonable and prudent actions to prevent or stop an act of sexual misconduct, including direct intervention when safe to do so, enlisting the assistance of friends or persons in authority, contacting law enforcement, and/or reporting the incident to campus officials. Community members who choose to exercise this positive, moral obligation will be supported by the College and protected from retaliation. In general, the College will not seek to hold any student who reports sexual harassment, sexual violence,

dating/domestic violence or stalking accountable for conduct which may constitute a violation of Community Standards, provided that any such violation did or does not place the health or safety of any person at risk. This means, for example, that students reporting sexual misconduct generally will not face disciplinary action due to the personal ingestion of alcohol or other drugs.

- The College recognizes that not every individual is prepared to move forward with a complaint for informal or formal resolution under this Policy. Confidential resources are available for those who are seeking assistance, but do not necessarily wish to make a report to the College. In addition, there are also many off-campus resources.

#### **A. Designated College Officials**

The following are key Staff members to whom a report may be made via email, phone or in person:

##### **Title IX Email Account**

[TitleIX@mville.edu](mailto:TitleIX@mville.edu)

##### **Seann Kalagher – Chief compliance Officer**

###### **Title IX Coordinator**

Reid Castle – Room 230

914-323-5379

[Seann.Kalagher@mville.edu](mailto:Seann.Kalagher@mville.edu)

##### **Sharlise Smith-Rodriguez – Dean of Students**

Title IX Deputy Coordinator

Reid Castle – Room 227

914-323-3134

[Sharlise.Smith@mville.edu](mailto:Sharlise.Smith@mville.edu)

##### **Stephanie Carcano-- Human Resources Generalist/Benefits**

Title IX Deputy Coordinator

Chapel Corridor - Room 206

914.323.5138

[Stephanie.Carcano@mville.edu](mailto:Stephanie.Carcano@mville.edu)

##### **Julene Fisher-- Associate Director for Athletics**

Title IX Deputy Coordinator

Kennedy Gym – Main Floor

914.323.7285

[Julene.Fisher@mville.edu](mailto:Julene.Fisher@mville.edu)

The Title IX Coordinator is formally designated to coordinate the College's compliance efforts regarding reports of sexual misconduct and discrimination by members of the College Community. The Coordinator will oversee the review, investigation and resolution of all reports under this Policy.

## **B. Mandated Reporters**

Individuals may also choose to report incidents of prohibited conduct to College employees not specifically designated above. The following is a list of Mandated Reporters who are trained to receive reports or complaints of sexual misconduct:

- President;
- Senior Officers (Vice Presidents and Upper level administrators);
- Campus Safety and Security;
- Human Resources Administrators;
- Other Deans, Associate Deans, Directors and Administrators with supervisory responsibilities;
- Academic Department Chairs and Program Directors.
- Coaches including Assistant ADs and Assistant Coaches;
- Faculty;
- Staff;
- Faculty/Staff advisors to student clubs/organizations;
- Student Affairs professionals;
- Residential Life Para and Professional Staff.

All Mandated Reporters are required to report incidents to the College's Title IX Coordinator or designee who will determine the most appropriate course of action to ensure a prompt and equitable response.

Pursuant to this Policy, failure to report allegations of sexual misconduct may result in disciplinary action up to and including termination and/or dismissal from the College.

## **C. Confidential Reporting**

While steps are taken to protect the privacy of all involved, individuals should understand that a report to any College employee listed above will necessarily trigger this Policy's centralized review process. If an individual would like the details

of an incident to be kept confidential, he or she may choose to speak with the following resources:

- On-campus licensed professional counselors and nurses in the Student Health and Counseling, located in Spellman Hall, G-11. Campus counselors are available to help free of charge and can be seen on an emergency basis during normal business hours.

The head of Student Health and Counseling is:

Melissa Boston, Psy.D  
Director of Counseling  
(914) 323-5155

[Melissa.Boston@mville.edu](mailto:Melissa.Boston@mville.edu)

The above on-campus resource centers are staffed by medical and psychological professionals who are bound by state confidentiality laws and will not share a report with other members of the College except in extreme cases of immediate threat or danger, or abuse of a minor. These employees are required to submit timely anonymous, aggregate statistical information for Clery Act purposes.

#### **D. Off-Campus Resources**

Individuals may also elect to contact off-campus support services and resources. The following organizations can provide crisis intervention services, counseling, medical attention and assistance in interfacing with the criminal justice system:

- Crisis/Suicide Hotline: 1-800-273-8255
- Domestic Violence Hotline: 1-800-942-6906
- GLBTQ - Domestic Violence Support 1-800-832-1901
- GLBTQ - Sexual Assault Support 1-617-779-2127
- Harrison Police Department: 1-914-967-5111
- Loft Lesbian & Gay Community Service Center 1-914-948-2932
- Loft Helpline 1- 914-948-4922 ext. 14
- My Sister's Place: 1-914-683-1333
- National Organization on male Sexual Victimization/Male Survivor:  
[www.malesurvivor.org](http://www.malesurvivor.org)
- New York City Gay and Lesbian Anti-Violence Project Hotline 1-212-714-1141
- Planned Parenthood: 1-914-761-6566

- Rape Crisis Hotline 24/7: 1-845-452-7272
- Title IX Official Website: [www.notalone.gov](http://www.notalone.gov)
- Victims Assistance Services: 1-914-345-9111
- Westchester Medical Center (FACT): 1-914-493-8671  
<http://www.westchestermedicalcenter.com/fact>
- White Plains Hospital: 1-914-681-1155

Inquiries may be made to the local Office for Civil Rights (OCR) Office:

Region II – New York (New Jersey, New York, Puerto Rico, Virgin Islands)  
 Office for Civil Rights  
 U.S. Department of Education  
 32 Old Slip, 26<sup>th</sup> Floor  
 New York, NY 10005-2500  
 Telephone: (646) 428-3800  
 Facsimile: (646) 428-3843  
 Email: [OCR.NewYork@ed.gov](mailto:OCR.NewYork@ed.gov)

Complaints with OCR must be filed within one hundred eighty (180) days of the last act the Complainant believes was discriminatory. There is no time limit for making a report to the College; however, if the Respondent is no longer a student or employee, the College's authority to pursue disciplinary action may be limited.

### III. Filing a Report

- A Complainant has the right, and can expect, to have reports taken seriously by the College when notified, and to have these incidents 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 and impartiality.
- Resolution procedures are guided by principles of fairness and respect for all parties. As referenced above, both on-campus and off-campus resources and support are available for both students and employees, whether as Complainants or Respondents, to provide guidance throughout the investigation and resolution of complaints.
- A Complainant may withdraw a complaint or report from the College at any time, without penalty.

- All proceedings are conducted in compliance with the requirements of FERPA, the Clery Act, Title IX, the Violence Against Women Act, federal, state and local law, and College policy.
- The Title IX Coordinator and other appropriate offices will determine which College policy will govern the resolution of the complaint, such as the Title IX Policy, applicable employee policies, or this policy.

#### **A. Complainant's Request Not to Pursue an Investigation**

If a Complainant does not wish for his/her name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the Complainant may make such a request to the Title IX Coordinator or designee, who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law. In cases indicating pattern, predation, threat, weapons and/or violence, the College will likely be unable to honor a request for confidentiality. Where the Complainant requests confidentiality and the circumstances allow the College to honor that request, the College may offer interim supports and remedies to the Complainant and the Community, but will not otherwise pursue formal action.

#### **B. Privacy in Reporting**

The College is committed to maintaining the privacy of all parties involved and every effort will be made to protect privacy interests in a manner consistent with the need for a thorough review.

Information provided to non-confidential campus employees will be relayed only as necessary to assist the Title IX Coordinator or designee in the active review, investigation and/or resolution of the complaint. While not bound by confidentiality, the circle of people with this knowledge will be kept as tight as possible to preserve a Complainant's and Respondent's rights and privacy.

#### **C. Receipt of Notice**

Upon receipt of notice of any allegation of sexual misconduct, the College shall ensure that Complainants are advised of their right to:

- "notify proper law enforcement authorities, including on-campus and local police;

- o be assisted by campus authorities in notifying law enforcement authorities if the Complainant so chooses; and
  - o decline to notify such authorities.”
- 20 U.S.C. §1092 (f)(8)(B)(iii)(III)(aa)-(cc).

The College will also inform the Complainant of his/her right to be protected from retaliation for reporting an incident in good faith, even if the report is not later substantiated.

If a Complainant chooses to file a report with the Harrison Police Department or any other applicable law enforcement agency, upon request, the College will assist the Complainant in doing so. Any criminal investigation performed by law enforcement will be separate from the investigation performed by the College. Disciplinary action will normally proceed concurrently with these civil and/or criminal proceedings and will not be subject to challenge on the grounds that civil or criminal charges involving the same incident have been dismissed or reduced. The College may undertake a short delay (several days to weeks) in its investigation or resolution process, to comply with a law enforcement request for cooperation (e.g. to allow for criminal evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. This temporary delay should not last more than 10 days except when law enforcement specifically requests and justifies a longer delay. The College will promptly resume its investigation and processes once notified by law enforcement that the initial evidence collection process is complete.

#### IV. Initial Assessment

- Following receipt of notice or a report of misconduct, the Title IX Coordinator or designee will conduct an initial Title IX assessment. The goal of this assessment is to determine whether there is reasonable cause to believe the Sexual Misconduct Policy has been violated, and to initiate an integrated and coordinated response. The assessment will consider the nature and circumstances of the allegations, the safety of both the individual and wider campus Community, and the Complainant’s preference for resolution.
- The Title IX Coordinator and other appropriate offices will determine which College policy will govern the resolution of the complaint, such as the Title IX Policy, applicable employee policies, or this policy. The Title IX Coordinator, or designated staff member, will notify the complainant of which policy and

process are applicable to their complaint, if any. Next steps will be in accordance with the applicable policy.

- Both the Complainant and Respondent may have a Support Person assist in providing support throughout the investigation and resolution of a complaint. The Support Person may be any individual, including an attorney engaged at the party's expense, who is not otherwise a party or witness in the investigation. They may accompany the Complainant or Respondent to any meeting or related proceeding with an investigator or a College employee. While the Support Person may confer quietly with the Complainant or Respondent to provide advice or support, they may not speak or write on the Complainant or Respondent's behalf or otherwise actively participate in the meeting or proceeding.
- A full investigation will proceed if there is reasonable cause to believe a policy violation may have occurred, evidence of a pattern of misconduct, or a perceived threat of further harm to the Community or any of its members. The College will make every effort to successfully resolve all reports within 90 days. The time allotted for the procedural appeal process is not included in the 90 days.

## V. Interim Measures

- If, in the judgment of the Title IX Coordinator or designee, the safety or well-being of any member(s) of the campus Community may be jeopardized by the presence on campus of the accused individual or the ongoing activity of a student organization whose behavior is in question, the Title IX Coordinator or designee may provide interim responsive and/or protective actions. These measures, which are not intended to be punitive in nature, may include but are not limited to:
  - Referral to counseling and health services;
  - Referral to the Employee Assistance Program;
  - Community education;
  - Altering the housing situation of the Respondent (resident student or resident employee) or the Complainant, if desired;
  - Altering work arrangements for employees;
  - Implementing contact limitations between the parties;
  - Interim suspension from the College;
  - Offering academic adjustments.

- The College may issue a No Contact Contract to both parties, whereby continued intentional contact by the Respondent with the Complainant would be a violation of College policy subject to additional conduct charges. No Contact Contracts are institutional documents that do not have the legal effect of orders of protection, which are obtained through a court.
- The Title IX Coordinator or designee has sole discretion to implement or stay an interim suspension under the Sexual Misconduct Policy, and to determine its conditions and duration.
- Both the Complainant and Respondent shall, upon request and consistent with the College's policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of any such interim measure or accommodation that directly affects him or her, and shall be allowed to submit evidence in support of this request.

## **VI. Investigation**

### **A. Pending Civil and/or Criminal Procedures**

- The College's Title IX process will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced. However, the College may undertake a short delay (several days to weeks) in its investigation or resolution process, to comply with a law enforcement request for cooperation (e.g. to allow for criminal evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. The College will promptly resume its investigation and processes once notified by law enforcement that the initial evidence collection process is complete.

### **B. Informal Conflict Resolution Procedure**

- The informal conflict resolution procedure may be considered for less serious inappropriate behaviors. Some incidents can be resolved through mediation or other interventions as long as both parties agree to participate voluntarily. Where the College concludes that informal resolution is appropriate, the College will take corrective action through the imposition of individual and Community remedies. These may include, but are not limited to, referral to counseling and health services, altering housing situations, academic adjustments, educational programming or training, and supported direct confrontation of the Respondent.

- The College may offer mediation for appropriate cases, but will not compel a Complainant to engage in mediation, to directly confront the Respondent, or to participate in any form of voluntary resolution. Mediation, even if voluntary, is not appropriate for any form of sexual assault, dating/domestic violence or stalking.
- Either party may change his or her mind at any point in time and elect to pursue a formal resolution.
- If reported misconduct is resolved at this stage, the Title IX Coordinator or designee will inform the Complainant and Respondent of the final determination through the issuance of an Outcome Letter, setting forth the informal measures implemented.

### C. Formal Procedure

- If the Complainant wishes to pursue a formal resolution, the College will initiate a formal investigation.
- The formal investigative procedure will typically include interviews with the Complainant and Respondent separately and any identified witnesses. The investigator will also gather any available physical evidence, including, but not limited to, documents, communications between the parties, and other electronic records. The investigator(s) will conduct the investigation in a manner appropriate to the circumstances of the case with sensitivity and respect, mindful of individual privacy concerns.
- At the conclusion of the investigation, the investigator(s) will prepare a written report that summarizes the information gathered, the areas of agreement and disagreement between the parties, and any supporting information or accounts. This document analyzes relevant facts that will be used in reaching a determination, based upon a clear and convincing evidence standard, of whether the Sexual Misconduct Policy has been violated.
- Before the report is finalized, the investigator(s) will meet separately with the Complainant and Respondent to review the information that will be used in reaching a determination. This review will include, but is not limited to, a review by both parties of the entire investigatory file. Either party may raise concerns about the inclusion of any evidence that s/he believes may be harmful, even if relevant. The Complainant and/or Respondent may also present additional new evidence for consideration within two business days of the meeting after which

no additional evidence or documentation can be added. An acknowledgement that the file is the complete record of the matter will be signed by both parties; this acknowledgement precludes the introduction of any new evidence at the formal hearing or appeal should either be requested. The investigator will consider such evidence, if appropriate, and issue a final report determining whether there is sufficient information to find, by clear and convincing evidence, that a policy violation has occurred.

- The parties will be notified of the investigator's findings by the Title IX Coordinator or designee in an Investigation Outcome Letter. The Title IX Coordinator or designee will, if the respondent is found responsible for a violation, determine the appropriate sanction(s). If either party rejects the decision or sanctions, a formal Hearing will be held, according to the procedures set forth below. If a Hearing is not requested by either party, the sanctions assigned will be implemented (if applicable) and the matter will be considered closed by the College.

## **VII. Sexual Misconduct Hearing Panel**

- For any complaints that are not resolved following the investigative process, the Title IX Coordinator or designee will initiate a formal Hearing.
- The Title IX Coordinator or designee will select three members from a pool of trained hearing officers to a Title IX Hearing Panel. None of the members will have been previously involved with the investigation. Investigators will be witnesses in the hearing of the complaint and therefore may not serve as Hearing Panel members. The College reserves the right to have its own attorney present during the Hearing.

### **A. Notification of Charges**

- At least one week prior to the Hearing, or as far in advance as is reasonably possible, the Title IX Coordinator or designee will send a letter to the parties with the following information. Once emailed via College email, or received in person, notice will be presumptively delivered. The letter will contain:
  - A description of the alleged violation(s) and a description of the applicable procedures.
  - The time, date and location of the Hearing and a reminder that attendance is mandatory. If any party does not appear at the scheduled Hearing, the Hearing will be held in their absence. For compelling reasons, the Title IX Coordinator or designee may reschedule the Hearing.

## **B. Hearing Procedures**

- Hearing procedures and accompanying rights of the Complainant and Respondent are set forth in Appendix C.
- Best efforts will be made to complete the entire process (up to the final appeal) in a timely manner within 90 days of the initial report. Extenuating circumstances may arise that require the extension of time frames beyond the 90 days. These circumstances may include the complexity and scope of the allegations, the number of witnesses involved, the availability of the Complainant, Respondent or witnesses, the effect of a concurrent criminal investigation, any intervening school break or other unforeseen circumstances.

## **C. Notice of Outcome**

- The written decision of the Hearing Panel will be communicated to both parties via email, concurrently. This letter will be sent within five business days after the Hearing has concluded, barring any exigent circumstances that may cause reasonable delay. The final outcome letter will include: the finding as to whether there has been a policy violation, the rationale for the result, and a brief summary of the evidence on which the decision is based. The notice will also include the sanction and rationale for the sanction. Both parties will be informed of their right to appeal on procedural grounds.

## **D. Sanctions**

- If a finding of responsibility is made, the Hearing Panel will consider, as part of its deliberations, whether sanctions will: (a) bring an end to the violation in question, (b) reasonably prevent a recurrence of a similar violation, and (c) remedy the effects of the violation on the Complainant and the College Community. In determining appropriate sanctions, the Panel may consider any record of past violations, as well as the nature and severity of such past violations. Any sanction imposed will be explained or supported in the written report.
- Student sanctions may include, but are not limited to:

Written Warning: An official warning that is recorded in a student's conduct record notifying the student that he/she has violated the College's Sexual Misconduct Policy. Any further violations will lead to a more serious sanction.

Restrictions from Activities or Privileges: Students may be restricted from active status or participation in any and all organized College activities other than required academic endeavors for a designated period of time. Visitation and guest privileges in the residence halls or elsewhere on campus may also be revoked. The right to maintain a vehicle on campus may also be revoked.

No Contact Order: A formal directive issued by the College. Requires signatures of both parties in any interpersonal conflict to have no direct or indirect interaction. A No Contact Order remains in effect until it is officially removed in writing by the College. A violation of a No Contact Order should be reported to either Campus Safety, the Office of Residence Life, Dean of Students or Human Resources. A violation of a No Contact Order is subject to disciplinary action. Under this Policy, a mutual No Contact Order may also be instituted as a non-punitive remedy.

Mandatory Counseling: In some instances students may be mandated to visit Student Health & Counseling for evaluation. Students mandated to undergo counseling will be given a deadline by which they must have made an appointment to be seen. If, based on the original evaluation, Student Health & Counseling recommends additional sessions the student is required to continue counseling until Student Health & Counseling recommends cessation. Failure to follow through with mandated counseling could result in removal from the residence halls or dismissal from the College.

Disciplinary Probation: Disciplinary probation is an official documentation that is recorded in the student's conduct record, compelling the student to exhibit good conduct during the probationary period. There is a range of sanctions (up to and including residence hall suspension) that may accompany disciplinary probation at the discretion of the Title IX Coordinator. The Title IX Coordinator or Hearing Panel may also direct the student to be professionally evaluated for any negative behavioral patterns suggested by the particular offense he/she committed. Terms of disciplinary probation shall be for a designated period.

Residence Hall Reassignment: This sanction will be recommended in situations where the College feels the individual needs a change of environment in order to conform to acceptable group living standards. Students receiving this sanction must relocate within 24 hours after the Title IX Coordinator or Hearing Board makes the decision, unless an extension is granted. Under this Policy, a Residence Hall Reassignment may also be instituted as a non-punitive interim remedy.

Residence Hall Suspension: A student is required to move out of the residence halls without refund of room fees. Students receiving this sanction must move out within 48 hours after the Title IX Coordinator or Hearing Board meets with the student, unless the Title IX Coordinator grants an extension or requires the student to vacate

his/her room immediately. The Title IX Coordinator or Hearing Board will decide the term of a student's ineligibility to live in a residence hall.

Deferred Suspension: Deferred separation from the College for a period of review during which the student must demonstrate an ability to comply with college rules, regulations, and all other stipulated requirements. If, during the period of the deferred suspension, the student is again found responsible for violating any college rule or regulation or an order from a College official, the student will be immediately suspended from the College.

Suspension: Separation from the College for a designated time period. Typically the suspension period is 2 semesters. A suspended student will be ineligible to graduate until the term of suspension has been served.

Expulsion/Dismissal: The Title IX Coordinator may decide that a student's enrollment be canceled and the student be permanently separated from the College. A student who is dismissed will be ineligible to return or graduate from Manhattanville College.

- Employee sanctions may include, but are not limited to:

Progressive Discipline process: As outlined in the Employee Handbook, depending on the seriousness of the offense or misconduct, corrective action may include: verbal warning (with a note to file of the meeting(s)); written reprimand; last chance warning; and termination.

Issuance of an acceptable apology and commitment to cease and desist.

Mandatory Counseling: In some instances, the employee may be mandated to follow through with an administrative referral to our Employee Assistance Program for evaluation and/or counseling.

No Contact Order: A formal directive issued by the College. Requires signatures of both parties in any interpersonal conflict to have no direct or indirect interaction. A No Contact Order remains in effect until it is officially removed in writing by the College. A violation of a No Contact Order should be reported to either Campus Safety, the Office of Residence Life, Dean of Students or Human Resources. A violation of a No Contact Contract is subject to disciplinary action. Under this Policy, a No Contact Order may also be instituted as a non-punitive remedy.

Alternate Work Station: Change of work location.

Restrictions from activities or privileges: i.e. removal of Chair position.

Suspension with or without pay/Termination: In the event of a serious infraction, a fast-track approach may be taken that could include suspension without pay or immediate termination. Typically, the suspension would range from 3 days to 2 weeks.

Policy Violation	Minimum Recommended Sanction
<b>Sexual Assault</b>	<p>Suspension from the College for a period of not less than one year and permanent eviction or restriction from College housing, and permanent restriction from campus. After the suspension is completed, the restriction from College housing and campus shall continue, except for the purpose of attending classes. Other sanctions deemed appropriate may also be imposed.</p> <p>_____</p> <p>As per the Employee Handbook, all employees are subject to the progressive discipline process.</p>
<b>Stalking</b>	<p>Suspension from the College for a period of not less than one year and permanent eviction or restriction from College housing, and permanent restriction from campus. After the suspension is completed, the restriction from College housing and campus shall continue, except for the purpose of attending classes. Other sanctions deemed appropriate may also be imposed.</p> <p>_____</p> <p>As per the Employee Handbook, all employees are subject to the progressive discipline process.</p>
<b>Dating/Domestic Violence</b>	<p>Suspension from the College for a period of not less than one year and permanent eviction or restriction from College</p>

	<p>housing, and permanent restriction from campus. After the suspension is completed, the restriction from College housing and campus shall continue, except for the purpose of attending classes. Other sanctions deemed appropriate may also be imposed.</p> <p>_____</p> <p>As per the Employee Handbook, all employees are subject to the progressive discipline process.</p>
<b>Sexual Harassment</b>	<p>College probation and an educational sanction. More severe sanctions may be imposed according to the intrusiveness of the contact. These may include permanent eviction and/or restriction from College housing, as well as permanent restriction from campus except for the purpose of attending classes. Other sanctions deemed appropriate may also be imposed.</p> <p>_____</p> <p>As per the Employee Handbook, all employees are subject to the progressive discipline process.</p>
<b>Retaliation</b>	<p>College probation and an educational sanction. More severe sanctions may be imposed according to the intrusiveness of the contact. These may include permanent eviction and/or restriction from College housing, as well as permanent restriction from campus except for the purpose of attending classes. Other sanctions deemed appropriate may also be imposed.</p> <p>_____</p> <p>As per the Employee Handbook, all employees are subject to the progressive discipline process.</p>

These are minimum sanctions only. The College reserves the right to add additional sanctions as are appropriate.	
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### VIII. Procedural Appeal to Appeal Officer

- All requests for a final appeal must be submitted in writing to the Title IX Coordinator or designee within five business days of the delivery of the written findings of the Hearing Panel. Either party may appeal, but appeals are limited to the following:
  - A procedural error or omission occurred that significantly impacted the outcome of the Hearing or the sanction imposed;
  - New evidence, unknown or not reasonably available during the investigation or Hearing, that could substantially impact the original finding;
  - Review of whether sanctions imposed are substantially disproportionate to the severity of the violation.
  
- The appeal will be considered in an impartial manner by the Appeal Officer. Dissatisfaction with the Hearing Panel’s decision is not grounds for appeal. The party requesting appeal must show that the grounds for a request have been met, and the opposing party may counter that the grounds have not been met.
  
- All sanctions imposed by the Hearing Panel will be in effect during appeal. The original finding and sanctions will stand if the appeal is not timely filed or is not based on the grounds listed above.
  
- Appeals are not intended to be full re-hearings of the case, but are confined to a review of the written record of the original Hearing and pertinent documentation regarding the grounds for appeal.
  
- The original finding and sanctions are presumed to have been decided reasonably and appropriately. The Appeal Officer can affirm the original findings, alter the findings where there is clear error, and/or alter the sanctions, depending on the basis of the requested appeal. Appeals granted based on new evidence should normally be remanded to the original Hearing Panel unless otherwise directed by the Title IX Appeal Officer.

- The Appeal Officer will issue a written decision via email and letter to all parties within five business days of receipt of the appeal from the Title IX Coordinator.
- The decision of the Appeal Officer is final and may not be appealed.

## IX. Transcript Notation

- Per New York Education Law Article 129-B, “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), the College 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 College while such conduct charges are pending, and declines to complete the disciplinary process, the College shall make a notation on the transcript of such students that they ‘withdrew with conduct charges pending.’” NY Educ. Law § 6444.

## Definitions

### Accused

- “A person accused of a violation who has not yet entered the College’s judicial or conduct process.” NY Educ. Law § 6439.

### Alcohol and/or Drug Use Amnesty Policy

- A bystander or a Complainant acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to College officials or law enforcement will not be subject to the College’s Code of Conduct action for violations. See [Sexual Assault Amnesty Policy](#)

### Affirmative Consent

- “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 incapacitate 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.”

NY Educ. Law § 6441.

#### Bias Behavior

- Any act committed against a person or group because of the race, color, gender, creed, religion, sexual orientation, gender identity, age, disability, or national origin of the victim. Bias crimes or misconduct are based on fear, misunderstanding, or dislike of a certain group of people and will result in disciplinary action by the College.

#### Bystander

- “A person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of rules or policies of the College.” A bystander does not have equivalent rights under federal or state law as a Complainant directly impacted by the violence. NY Educ. Law § 6439.
- The College encourages community members to offer help and assistance to others in need, and pursues a policy of amnesty for those who do so.

#### Clear and Convincing Evidence

- The legal standard of proof applicable to disciplinary proceedings under this Policy. Also characterized as evidence that is highly and substantially more likely

to be true than untrue, or that the it is highly probable that the alleged violation occurred.

#### Code of Conduct

- “The written policies adopted by the College governing student behavior, rights, and responsibilities while such student is matriculated at the College.” NY Educ. Law § 6439.

#### College Community

- Board of Trustees, Faculty, Staff, students, volunteers, as well as anyone doing business with or for the College.

#### Complainant (“Reporting Individual”)

- “Shall encompass the terms victim, survivor, claimant, witness with victim status, and any other term used by the College to reference an individual who brings forth a report of a violation.” A bystander to a violation, or a third party who reports information about a violation that they have learned from a Complainant, is not a Complainant. NY Educ. Law § 6439.

#### Confidentiality

- “May be offered by an individual who is not required by law to report known incidents of sexual assault or other crimes to institution officials, in a manner consistent with state and federal law, including but not limited to 20 U.S.C. 1092(f) and 20 U.S.C. 1681(a). Licensed mental health counselors, medical providers and pastoral counselors are examples of College employees who may offer confidentiality.” NY Educ. Law § 6439.

#### Dating violence

- “Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.
  - (i) The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
  - (ii) For the purposes of this definition—
    - (A) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
    - (B) Dating violence does not include acts covered under the definition of domestic violence.

(iii) For the purposes of complying with the requirements of this section and § 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.”

34 C.F.R. § 668.46.

#### Domestic violence

- “(i) A felony or misdemeanor crime of violence committed—
  - (A) By a current or former spouse or intimate partner of the victim;
  - (B) By a person with whom the victim shares a child in common;
  - (C) By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
  - (D) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or
  - (E) By 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.
- (ii) For the purposes of complying with the requirements of this section and § 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.”

34 C.F.R. § 668.46.

#### Hate Crime

- “A crime reported to local police agencies or to a campus security authority that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim. For the purposes of this section, the categories of bias include the victim’s actual or perceived race, religion, gender, gender identity, sexual orientation, ethnicity, national origin, and disability.”

34 C.F.R. § 668.46.

#### Impact Statement

- A written or oral statement from either the Complainant or Respondent describing how an incident has affected them.

#### Mandated Reporter

- Any member of the College Community who is informed about and/or witnesses potential sex discrimination has the responsibility to report to the Title IX Coordinator or designee.
- Generally, climate surveys, classroom writing assignments, human subjects research, or events such as Take Back the Night marches or speak-outs do not trigger an employee’s duty to report.

#### No Contact Order

- A formal directive issued by the College. Requires signatures of both parties in any interpersonal conflict to have no direct or indirect interaction. A No Contact Order remains in effect until it is officially removed in writing by the College. A violation of a No Contact Order should be reported to either Campus Safety, the Office of Residence Life, Dean of Students or Human Resources. A violation of a No Contact Order is subject to disciplinary action. Under this Policy, a No Contact Order may also be instituted as a non-punitive interim remedy.

#### Privacy

- “May be offered by an individual when such individual is unable to offer confidentiality under the law but shall still not disclose information learned from a Complainant or bystander to a crime or incident more than necessary to comply with this and other applicable laws, including informing appropriate College officials.” NY Educ. Law § 6439.
- College officials and employees who cannot guarantee confidentiality will maintain privacy to the greatest extent possible. The information provided to a non-confidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution.

#### Reporting Individual

- “Shall encompass the terms Complainant, survivor, Complainant, claimant, witness with Complainant status, and any other term used by the College to reference an individual who brings forth a report or a violation.” NY Educ. Law § 6439.

#### Respondent

- “A person accused of a violation who has entered the College’s judicial or conduct process.” NY Educ. Law § 6439.

#### Retaliation

- Any adverse action a College Community member experiences as a result of the individual making an inquiry, participating in an investigation, or making a reasonable good-faith report of possible non-compliance with laws, regulations and/or policies.

#### Sexual Activity

- Shall have the same meaning as ‘sexual act’ and ‘sexual contact’ as provided in 18 U.S.C. 2246(2) and 18 U.S.C. 2246(3).

“(2) the term ‘sexual act’ means—

- A. contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight;
- B. contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
- C. the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or
- D. the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;

(3) the term ‘sexual contact’ means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.”

“Individuals must obtain affirmative consent prior to engaging in any of the activity referenced above.”

NY Educ. Law § 6439.

#### Sexual Assault

- “An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI’s UCR program.”
  - *Rape*—The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
  - *Fondling*—The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
  - *Incest*—Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - *Statutory Rape*—Sexual intercourse with a person who is under the statutory age of consent.”

34 C.F.R. § 668.46(Appendix A).

### Sexual Discrimination

- All forms of sexual harassment, including all forms of sexual assault, and other sexual violence committed by members of the College Community, which includes Board of Trustees, Faculty, Staff, students, and volunteers, as well as anyone doing business with or for the College.

### Sexual Harassment

- Sexual Harassment is any unwelcome sexual advance, requests for sexual favors, or other verbal or physical conduct or communication of a sexual nature when:
  - Submission to such conduct is explicitly or implicitly a condition of an individual's academic or employment status;
  - Submission to, or rejection of, such conduct is used as the basis for making academic or employment decisions affecting an individual; or
  - Such conduct has the purpose or effect of interfering unreasonably with an individual's academic performance or work or creates an offensive, hostile, or intimidating learning or working environment.
- Sexual Harassment falls into two categories:
  - Quid Pro Quo: unwelcome sexual advances or requests for sexual favors from a person in authority in exchange for a grade, job, promotion or some other academic or employment benefit; or
  - Hostile Environment: unwelcome behaviors of a sexual nature that a reasonable person would find so offensive, hostile, or intimidating as to impair an individual's academic or employment rights.

### Social Media Policy

- This policy establishes a set of rules and guidelines for any activity and participation in "social media" by all Manhattanville students. The term "social media" applies, without limitation, to any web-based and mobile technologies, in use now or developed in the future, that enable individuals or entities to disseminate or receive information, communicate, or otherwise interact, and includes, without limitation, email, texting, messaging, social networking, blogging, micro-blogging, and bulletin boards through providers such as Facebook, LinkedIn, Myspace, Twitter, YouTube, Instagram, Vine, Snapchat and any other social media platforms. See Student Handbook.

### Stalking

- "(i) Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—  
(A) Fear for the person's safety or the safety of others; or

- (B) Suffer substantial emotional distress.
- (ii) For the purposes of this definition—
- (A) *Course of conduct* means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- (B) *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.
- (C) *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- (iii) For the purposes of complying with the requirements of this section and section 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.”
- 34 C.F.R. § 668.46.

#### Students

- Matriculated or non-matriculated, a person taking courses at Manhattanville College (on-campus or off), on a leave of absence recognized by the College, or currently suspended by the College. A person who was administratively withdrawn or has actively withdrawn from the College is not considered a student.

#### Students' Bill of Rights

- Manhattanville College has adopted a Students' Bill of Rights as part of its Code of Conduct aimed at informing and educating students of their rights with respect to incidents involving sexual misconduct. [See Sexual Assault Victims Bill of Rights](#)

#### Support Person

- An individual, not otherwise a party or witness in the investigation, who may accompany the Complainant or Respondent to any meeting or related proceeding with an investigator or a College employee. While the Support Person may confer quietly with the Complainant or Respondent to provide advice or support, s/he may not speak or write on the Complainant or Respondent's behalf or otherwise actively participate in the meeting or proceeding.

#### Title IX Coordinator

- “The Title IX Coordinator and/or his or her designee or designees.” NY Educ. Law § 6439.
- Administrator responsible for coordinating Manhattanville’s efforts to comply with and carry out its responsibilities under Title IX. Oversees the College’s central review, investigation and resolution of reports of sexual harassment, sexual assault, dating/domestic violence and stalking under this Policy, and subject to the requirements and limitations of applicable federal regulations.

#### Recordkeeping

- Records for matters falling under this policy are defined as those records (maintained in any format) which relate exclusively to a violation of the Sexual Misconduct Policy which have been filed with the Title IX Coordinator, designee, investigators or Hearing Board. A case file includes and is limited to incident report forms, College-generated protocol forms signed by Complainant/Respondent, investigator’s interview notes (if notes are created), investigator’s summary, evidence as agreed to by the Complainant and Respondent, notification of decision by Title IX Coordinator, documents presented as evidence at the hearing, decision of Title IX hearing panel, appeal letter with accompanying documents, and final disposition of appeal.

## Responsibilities

#### Accused or Respondent

- If a Respondent (Accused) and a Complainant observe each other in a public place, it shall be the responsibility of the Respondent to leave the area immediately and without directly contacting the Complainant. The College may establish an appropriate schedule for the Respondent to access applicable institution buildings and property at a time when such buildings and property are not being accessed by the Complainant.

#### Dean of Students

- Responsible for administering this Policy as it pertains to students.

#### Director, Human Resources

- Responsible for administering this Policy as it pertains to Board of Trustees, Faculty, Staff, volunteers, as well as anyone doing business with or for the College.

### Mandated Reporters

- Required to report all allegations of suspected sexual discrimination and/or misconduct to the Title IX Coordinator, Deputy Title IX Coordinators, or Campus Safety.

### Title IX Coordinator

- Administers this Policy and oversees the College's central review, investigation and resolution of reports of sexual harassment, sexual assault, dating/domestic violence and stalking.
- Responsible for tracking patterns and assessing the impact of individual incidents on climate and culture.
- Responsible for overseeing training, prevention and education efforts and annual reviews of climate and culture.
- All Community members are expected to provide truthful information in any proceeding under this Policy. The College will not tolerate intentional false reporting of incidents, or the provision of false or misleading information in connection with a report or investigation. It is a violation of the Student Code of Conduct and the Employee Handbook to make an intentionally false report of any policy violation, and such actions may also violate state criminal statutes and civil defamation laws.
- It is a violation of this Policy to retaliate in any way against a student or employee for making a good faith report of sexual misconduct, or participating in any way in the College's resolution of a report. The College will take immediate and responsive action to any report of retaliation.
- Violation of an interim suspension under this Policy is grounds for expulsion or termination.

## Resources

- Manhattanville College supports this policy through educational prevention, counseling, and medical support services. Educational programs at Manhattanville include, but are not limited to, guest speakers, awareness

programs, individual counseling, various victim support services and other programs presented by various departments.

- The following are on-campus and off-campus support services available for the Complainant, Respondent, and witnesses:
  - Campus Safety: 1-914-323-7233
  - Counseling and Wellness Center: 1-914-323-5155
  - Crisis/Suicide Hotline: 1-800-273-8255
  - Domestic Violence Hotline: 1-800-942-6906
  - GLBTQ - Domestic Violence Support 1-800-832-1901
  - GLBTQ - Sexual Assault Support 1-617-779-2127
  - Harrison Police Department: 1-914-967-5111
  - Loft Lesbian & Gay Community Service Center 1-914-948-2932
  - Loft Helpline 1-914-948-4922 ext. 14
  - My Sister's Place: 1-914-683-1333
  - National Organization on male Sexual Victimization/Male Survivor:  
[www.malesurvivor.org](http://www.malesurvivor.org)
  - New York City Gay and Lesbian Anti-Violence Project Hotline 1-212-714-1141
  - Planned Parenthood: 1-914-761-6566
  - Rape Crisis Hotline 24/7: 1-845-452-7272
  - Title IX Official Website: [www.notalone.gov](http://www.notalone.gov)
  - Victims Assistance Services: 1-914-345-9111
  - Westchester Medical Center (FACT): 1-914-493-8671  
<http://www.westchestermedicalcenter.com/fact>
  - White Plains Hospital: 914-681-1155
  - 24 Hour Rape Crisis Hotline: 1-845-452-7272

## Interpreting Authority

Title IX Coordinator (primary authority for issues of sexual misconduct)

Director, Human Resources (secondary authority for issues of sexual misconduct involving Board of Trustees, Faculty, Staff, volunteers, as well as anyone doing business with or for the College)

Dean of Students (secondary authority for issues of sexual misconduct involving students)

## Statutory or Regulatory References

Title IX of the Education Amendments of 1972  
Title VII of the Civil Rights Act  
Title VI of the Civil Rights Act  
The Clery Act (The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act)  
Equal Pay Act  
ADA (Americans with Disabilities Act)  
FERPA (Family Educational Rights and Privacy Act)  
Hate Crimes Law  
New York Executive Law, Article 15, Human Rights Law, Sec. 292.21(21).  
New York Executive Law, Article 15, Sec. 446.13 (proposed)  
New York State Corrections Law, Sections 752  
New York State Unified Court System, Domestic Violence Policy  
New York Education Law §§ 6439-6449  
Code of Federal Regulations, Title 34, Education, part 668, Student Assistance General Provisions

## Relevant Links

Non-Discrimination and Harassment Policy, Policy 1.5.1  
Non-Retaliation Policy, Policy 1.5.3

## Policy Adoption Review and Approval

Recommended approval by President's Cabinet on August 4, 2016  
Approved by President on August 9, 2016  
Revised by President's Cabinet & President on January 21, 2019  
Revised by President's Cabinet & President on September 1, 2020