



Sexual Misconduct Policy

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Section I – Sexual Misconduct Policy

I. Statement of Purpose

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

This policy sets forth:

- definitions of conduct that constitutes sexual misconduct;
- clear guidelines for all members of our campus and visitors on how to report incidents of sexual misconduct and other steps individuals may take if they either experience or are accused of an incident of sexual misconduct;
- rights, options, and resources available to both complainants and respondents;
- how Maria College plans to promptly respond to and investigate allegations of sexual misconduct, including taking steps to eliminate a hostile environment if one has been created and prevent the recurrence of future incidents of sexual misconduct;
- how Maria College is available to provide ongoing assistance and support to members of our campus who file complaints of sexual misconduct; and
- awareness and prevention information on sexual misconduct, including how Maria College disseminates our policies and implement training and educational programs for all College constituents.

II. 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 Education Law 129-B. This policy applies to all College community members, including students, faculty, staff, administrators, other employees, volunteers, interns, and independent contractors. Vendors, outside 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, immigration status, or criminal conviction.

Maria College will receive and address reports received from any individual, whether or not

her/she is affiliated with the College, regarding the potential violation of this policy by a College community member. The prohibitions and protections in this policy apply regardless of whether the violation occurs on-campus or off-campus. Members of the Maria College community who are found to have committed sexual misconduct will be disciplined appropriately and pursuant to College policy. The actions the College is empowered to take against an individual may vary or be limited when that individual is not a member of the Maria College community. Whenever a member of the College community is subjected to sexual misconduct, regardless of the status of the individual who committed it, Maria College will continue to provide support, resources, and protection to the affected community member. At all times, Maria College will cooperate with and assist in law enforcement investigations whenever appropriate and requested to do so.

- Complaints against a Maria College student or staff or faculty member will be resolved by the procedures set forth in this policy. As long as the College has jurisdiction over a student who is the Accused or Respondent, there is no time limit to invoking this policy in cases of alleged sexual and gender-based misconduct. Nevertheless, persons are encouraged to report alleged sexual or gender-based misconduct as soon as possible to maximize the College's ability to respond promptly and effectively.
- Complaints against a third party/individuals not affiliated with Maria College may not be able to be resolved through the College's process. The College's ability to take appropriate corrective action against a third party will be determined by the nature of the relationship between the third party and the College. Regardless, all support resources and interim measures are still available to the Reporting Individual and every effort will be made to assist the Reporting Individual in filing a complaint against the responding person through the appropriate channels (i.e. police, current workplace, current institution they attend, etc.).

III. Statement of Privacy and Confidentiality

All College employees (including all faculty, staff, and administrators) – except for the College's Director of Counseling Services, who serves as the College's Confidential Resource as described on page 18 – are considered College officials who are responsible for immediately referring known, suspected, disclosed, and/or reported sexual misconduct (including sexual assault, sex discrimination, sexual harassment, and other sexual and gender-based misconduct as defined under this policy) to Maria College's Title IX Coordinator.

Maria College is committed to protecting the privacy of all individuals involved in a potential incident of sexual misconduct – including the reporting individual, the accused individual, and any witnesses or bystanders. The College also is committed to providing assistance to help all individuals who may be impacted by potential sexual misconduct make informed choices. In all cases, the College will make efforts to protect the privacy interests of all individuals involved to the greatest extent possible.

Privacy and confidentiality have distinct meanings under this policy – please refer to the "Definitions & Terminology" section on the following pages for additional information regarding expectations for privacy and confidentiality under this policy.

IV. Definitions & Terminology

The following key terms are used throughout this policy and may be heard during conversations with Maria College officials during an investigation and/or formal disciplinary proceedings. The following definitions are provided for both informational knowledge and for your own reference and guidance during an investigation and/or disciplinary proceeding. It is possible that a particular action may constitute sexual misconduct even if not specifically mentioned in these definitions. Where any term is not specifically defined under this policy, this policy applies the common meaning of the word as set forth by the English dictionary preferred by the Title IX Coordinator.

If you have any questions about what these terms mean or whether they apply to certain situations, please feel free to talk to the Title IX Coordinator. Any questions regarding whether a specific incident constitutes a crime should be addressed to State or local law enforcement, the local district attorney, or a private attorney.

Accused Individual: The “accused individual” is a person accused of a violation under this policy who may or may not have entered the College’s conduct process. When an accused individual has entered the College’s conduct process, the person may also be referred to as a “respondent”.

Affirmative Consent: Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant’s sex, sexual orientation, gender identity, or gender expression.

Consent will be determined with the following principles in mind:

- Consent to any sexual act or prior consensual activity between or with any party does not necessarily constitute consent to any other sexual act.
- Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
- Consent may be initially given but withdrawn at anytime.
- 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 lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs or other intoxicants may be incapacitated and therefore unable to consent.
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- When consent is withdrawn or can no longer be given, sexual activity must stop.

Bystander: A “bystander” is a person who witnesses, observes, overhears, or otherwise becomes aware of sexual misconduct, a crime or an impending crime, a concerning interaction, a conflict of interest, violent or potentially violent behavior, harassment or potential harassment, or other conduct that is or would potentially be in violation of this policy and/or other rules or policies of the College, or any federal, State, or local law. Bystanders are encouraged to report known or potential incidents to the Title IX Coordinator or another College official whom they trust. Bystanders are not typically considered “reporting individuals” as defined under this policy unless they have been subjected to the misconduct in question in some manner; however, like all individuals involved in an incident of sexual misconduct, bystanders are entitled under this policy to seek supportive measures and protections, if desired.

Complainant / Survivor / Victim: These terms are alternate ways of referring to a “reporting individual” as defined under this policy. “Complainant” is commonly used to refer to a “reporting individual” who is participating in the Maria College conduct process. “Survivor” or “victim” are commonly used when referring to a “reporting individual” in the context of support settings, such as counseling.

Confidentiality: Confidentiality can be offered by a College official who is not required by law to report known incidents of sexual assault or other crimes to the College’s Title IX Coordinator or any other College officials. Any conversation you have with a Confidential Resource will be kept completely confidential and will not be shared with anyone else without your permission, except in the very rare and extreme circumstance where someone’s safety is at risk. Maria College has one College official who can offer complete confidentiality – for more information on how to make a confidential report to the College Confidential Resource, see page 18. Reports can also be made confidentially to off-campus resources, who have no obligation to notify or involve the College, such as a domestic violence shelter, rape crisis center, private therapist or counselor, or religious leader.

Incapacitated: Incapacitation is a state where an individual cannot make an informed and rational decision to engage in sexual activity because they lack conscious knowledge of the nature of the act (i.e., lack an understanding of the who, what, when, where, why or how of the sexual interaction) and/or is physically helpless. An individual is incapacitated, and therefore unable to give consent, if they are asleep, unconscious, or otherwise unaware that sexual activity is occurring. The use of alcohol or other drugs does not, in and of itself, negate a person's ability to give consent, but a level of intoxication can be reached, short of losing consciousness, in which a person's judgment is so impaired that they become incapacitated and thus are not capable of giving consent.

The impact of alcohol and drugs varies from person to person, and evaluating incapacitation requires an assessment of how the consumption of alcohol and or drugs impact an individual's:

- Decision-making ability;
- Awareness of consequences;
- Ability to make informed judgments; or

- Capacity to appreciate the nature and the quality of the act.

Because the use of alcohol and other drugs can have a cumulative effect over time, a person who may not have been incapacitated at the beginning of sexual activity may become incapacitated and therefore unable to give effective consent as the sexual activity continues.

Evaluating incapacitation also requires an assessment of whether the accused or Respondent, or sober, reasonable person in that individual's position, knew or should have known, that the individual was incapacitated. If the person who wants to engage in sexual activity is too intoxicated to judge another's communications about consent, that person has an obligation to cease the activity. A person's responsibility for obtaining consent is not diminished by use of alcohol and or other drugs. Being intoxicated or impaired by drugs or alcohol is never an excuse for sexual misconduct.

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

Reporting Individual: “Reporting Individual” shall encompass the terms Victim, Survivor Complainant, Claimant, Witness with Victim Status, and any other term used to reference an individual who was subjected to and brings forth a report of a sexual misconduct violation. The term “reporting individual” does not generally include bystanders as defined under this policy.

Respondent: A “Respondent” is a person accused of a violation under this policy (i.e., an “accused individual”) who has entered the College’s conduct process.

Sexual Activity: Sexual activity includes both “sexual acts” and “sexual contact” as defined below:

“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.

“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.

Sexual Misconduct: Sexual misconduct is a broad term that encompasses a range of behaviors. Sexual misconduct can occur between people who know each other, people who have an established relationship, people who have engaged in consensual sexual activity before, and people who don't know each other. Sexual misconduct can be committed by persons of any gender or gender identity, and it can occur between people of the same sex or different sex. Sexual misconduct includes but is not limited to:

- **Sexual assault:** *Unwanted sexual activity and/or unwanted sexual contact that has not been consented to by one or more of the individuals involved, including but not limited to:*
 - **Rape:** *The penetration, no matter how slight, of a person's vagina or anus, without that person's consent, by another person with any body part or object; and/or the penetration of a person's mouth, without that person's consent, by another person's sex organ.*
 - **Sexual coercion:** *Using verbal pressure to compel another person to engage in sexual activity that he/she would otherwise not consent to, including but not limited to telling lies, threatening to spread rumors, and engaging in verbal abuse.*
 - **Fondling:** *Touching the private body parts of another person, without that person's consent, for the purpose of sexual gratification.*
 - **Statutory rape:** *Sexual intercourse between an adult (i.e., age 18 and older) and a person who is under the legal age of consent. In New York State, the age of consent is 17.*
- **Sexual exploitation:** *Engaging intentionally in exploitive behavior including but not limited to:*
 - *Observing another person when that person is in a state of undress, nude, or engaged in sexual activity without the knowledge and consent of the person observed, or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;*
 - *Making, sharing, posting, streaming, or otherwise distributing any image, photography, video, or audio recording depicting or otherwise recording another person when that person is in a state of undress, nude, or engaged in sexual activity without the knowledge and consent of the person depicted or recorded;*
 - *Exposing one's genitals to another person without the consent of that person;*
 - *Knowingly exposing another person to a sexually transmitted infection without the knowledge and consent of the person exposed;*
 - *Causing another person to become incapacitated with the intent of making that person vulnerable to non-consensual sexual activity or sexual exploitation.*

- ***Stalking:*** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her safety or the safety of others, or would cause a reasonable person to suffer substantial emotional distress.
- ***Domestic violence:*** Violence committed by a current or former spouse, by a person with whom you share a child, or by a person with whom you live or have lived as a spouse or intimate partner, including acts of sexual violence, sexual abuse, physical abuse, or the threat of any such abuse.
- ***Dating violence:*** Violence committed by a person you are dating or have dated, or by a person with whom you have or have had a relationship of a romantic or intimate nature, including acts of sexual violence, sexual abuse, physical abuse, or the threat of any such abuse.
- ***Gender-based harassment:*** Unwelcome conduct of a non-sexual nature based upon a person's actual or perceived sex, including conduct based on gender identity, gender expression, and non-conformity with gender stereotypes.
- ***Sexual harassment:*** Sexual harassment can take numerous forms, and under this policy includes misconduct directed at an individual on the basis of his/her sex and which constitutes one or more of the following behaviors:
 - (i) any employee of Maria College conditioning any aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct;
 - (ii) "sexual assault", "stalking", "domestic violence", and/or "dating violence" as defined under this policy; and/or
 - (iii) unwelcome conduct of a sexual nature that is so severe, persistent or pervasive, and objectively offensive to a reasonable person that it effectively denies or otherwise limits an individual's ability to participate in or benefit from a program or activity of Maria College or as to create a hostile or abuse educational or employment environment, including but not limited to the following:
 - Unwelcome sexual advances
 - Requests for sexual favors
 - Sexual exploitation
 - Offering employment or educational benefits in exchange for sexual favors
 - Threatening or taking negative action in the event of having sexual advances denied and/or after having sexual advances denied, such as a professor threatening to fail a student unless the student agrees to date the professor
 - Graphic verbal comments about an individual's body or appearance
 - Spreading sexual rumors
 - Touching an individual's body or clothing (including one's own) in a sexual way, such as grabbing, brushing against, patting, pinching, bumping, rubbing, kissing, fondling, etc.
 - Other verbal or non-verbal conduct of a sexual nature
 - Other sexual misconduct and/or sexual violence
- ***Sex discrimination and/or gender discrimination:*** Treating an individual adversely or unfavorably based upon that individual's sex and/or gender in

the context of educational or employment activities, programs, or benefits, such as admissions; hiring; selection for and/or participation in projects, teams, or events; provision of wages or benefits, selection for promotions; etc.

- ***Retaliation:*** *Taking adverse action against an individual for making a good faith report of prohibited behavior, for participating in and/or cooperating with any investigation or proceeding regarding such behavior, for exercising rights and/or pursuing protections under this policy or any law, and/or otherwise cooperating with the College's efforts to prevent and remediate sexual misconduct in its community, including but not limiting to engaging in threats, coercion, intimidation, and/or adverse actions regarding education or employment.*
 - *Retaliation does not exist where an individual pursues actions in good faith.*
 - *Retaliation may be committed by an accused individual, reporting individual, or any other person or group of persons (such as friends or family or either of the parties).*
 - *Retaliation can occur even when an accused individual is found to be "not responsible".*
- ***Other sexual violence***
- ***Other inappropriate behavior of a sexual nature***

Title IX Officers: Maria College has designated several Title IX Officers (consisting of one Title IX Coordinator and two Deputy Title IX Coordinators) who are 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 Maria College adheres to federal Title IX requirements, among other things. The Title IX Coordinators have the primary responsibility for:

- Receiving complaints regarding sexual misconduct;
- Providing information to employees and students about resources and support services available;
- Directing investigations into incidents of sexual misconduct;
- Issuing interim supportive measures and arranging requested accommodations;
- Ensuring disciplinary processes involving sexual misconduct are handled in accordance with College policies; and
- Overseeing compliance with any consequences and/or sanctions imposed through disciplinary processes.

The Title IX Officers are the individuals with whom you would file a formal report regarding sexual misconduct for action by Maria College. Individuals can also privately tell a Title IX Officer about incidents of sexual misconduct even if they do not wish to file a formal report or see official action taken. In either case, the Title IX Officer will offer supportive measures and other services that may be helpful. For more information on how to make a report to the Title IX Officers, see page 16.

Witness: A Witness is an individual who has knowledge of facts that may be relevant to the resolution of an allegation, and includes any bystander as defined under this policy.

V. Prohibited Behavior

Maria College is a place of academic learning, and its community members are expected to behave accordingly. The following behaviors are considered violations of Maria College's Sexual Misconduct Policy. Violations of this policy can occur both on-campus and off-campus and may also include other unacceptable conduct not specifically listed below.

Any possible or known violation of this policy may result in the College conducting an investigation; in certain instances, the College is obliged by federal and/or New York State law to conduct an investigation into these behaviors. Members of the Maria College community – including both students and employees – who are believed to have committed prohibited behavior in violation of this policy may face serious disciplinary action, such as suspension or expulsion/termination.

Prohibited Behavior:

- Sexual misconduct, including but not limited to the following:
 - Rape
 - Sexual assault
 - Sexual harassment
 - Stalking
 - Domestic violence
 - Dating violence
 - Unwanted sexual activity and/or contact
 - Fondling
 - Statutory rape
 - Gender-based harassment
 - Sex discrimination
 - Retaliation against someone who has made a complaint about sexual misconduct; been party to, participated in, and/or cooperated in a sexual misconduct investigation or hearing; or otherwise exercised rights under this policy or federal, State, or local law
 - Sexual exploitation
 - Sexual coercion
 - Other sexual violence
 - Other sexually inappropriate behavior
- Attempting to commit sexual misconduct
- Aiding another person in committing sexual misconduct
- Knowingly violating an interim measure or sanction imposed by the College pursuant to this policy, such as a “no contact” order, interim removal, suspension, or other measures and/or sanctions deemed by the College to be appropriate under the circumstances
- Knowingly filing a false report of any prohibited behavior
- Engaging in a relationship prohibited under the College's Policy on Consensual Relationships between Employees & Students, as described on page 13.

Definitions for the above behaviors are provided within the “Definitions and Terminology” section of this policy. Where a term is not specifically defined under this policy, this policy applies the common

meaning of the word as set forth by the English dictionary preferred by the Title IX Coordinator.

Any possible or known engagement in prohibited conduct may result in the College conducting an investigation and, if appropriate, pursuing disciplinary action as described under this policy. Students and employees who are deemed to have committed sexual misconduct under the procedures prescribed by this policy may face discipline as deemed appropriate by the College, up to and including dismissal from Maria College.

VI. Policy on Consensual Relationships between Employees & Students

Sexual & romantic relationships between employees are the private business of Maria College employees and are generally permitted. Employees are required to notify the Office of Human Resources of the relationship in cases where one employee involved in the relationship serves as a supervisor of the other employee or otherwise evaluates, advises, disciplines, assigns, or directs the other employee or holds a position of authority over the other employee. Failure to notify the Office of Human Resources may subject the involved employees to inquiry and/or action, as deemed appropriate under the circumstances.

Sexual & romantic relationships between students are the private business of Maria College students and are generally permitted.

Sexual & romantic relationships between College employees and any student whom they currently teach, advise, supervise, coach, evaluate, or otherwise hold authority over in any way are considered to violate the integrity of the College's educational community and are strictly prohibited.

Even if a College employee does not currently hold a position of authority over a student, any sexual relationship between an employee and a student of the College potentially jeopardizes the integrity of the academic environment of the Maria College community. The College, therefore, discourages in the strongest possible terms any sexual relationship between an employee and any student of the College. In the event that any such relationship is found in the judgment of College officials to undermine the trust, respect, and fairness that are essential to the success of Maria College's educational mission, the College may deem the relationship to constitute a violation of this policy and may take disciplinary action, as appropriate, up to and including dismissal from the College.

In any instance where a report or allegations of sexual misconduct are made against any individual, it shall not be a valid or acceptable defense in any Maria College investigation or proceeding to claim that a relationship was consensual, pre-existing, continuous, long-term, ongoing, or otherwise permissible due to the nature of the relationship.

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. For more information on the College's position on consent, please refer to the definition of "affirmative consent" and its guiding principles as set forth on page 6 of this policy. Any individual who has questions regarding consensual relationships or certain behavior occurring in their relationship is welcome to talk to the Maria College's Title IX Coordinator or Confidential Resource.

Section II – Reporting, Investigation, and Disciplinary Process

I. Role of the Title IX Officers

Maria College has designated several Title IX Officers (consisting of one Title IX Coordinator and two Deputy Title IX Coordinators) who are 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 Maria College adheres to federal Title IX requirements, among other things. The Title IX Coordinators have the primary responsibility for:

- Receiving complaints regarding sexual misconduct;
- Providing information to employees and students about resources and support services available;
- Directing investigations into incidents of sexual misconduct;
- Issuing interim supportive measures and arranging requested accommodations;
- Ensuring disciplinary processes involving sexual misconduct are handled in accordance with College policies; and
- Overseeing compliance with any consequences and/or sanctions imposed through disciplinary processes.

The Title IX Officers are the individuals with whom you would file a formal report regarding sexual misconduct for action by Maria College. Individuals can also privately tell a Title IX Officer about incidents of sexual misconduct even if they do not wish to file a formal report or see official action taken. In either case, the Title IX Officer will offer supportive measures and other services that may be helpful.

Title IX Coordinator

Andrew Ledoux
Associate Vice President for Student Affairs
Associate Dean of Students
Title IX Coordinator
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Title IX Deputy Coordinators

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Rosa Lyn Vazquez
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Official Communications from Title IX Officers: All official notifications, correspondence, and updates from the Title IX Team will be sent to the designated Maria College email addresses of the involved individuals.

II. Options for Reporting Sexual Misconduct

Members of the Maria College community who have been subjected to sexual misconduct have several options when it comes to reporting an incident. These individuals have the right to:

- Report the incident to Maria College's Title IX Officers, Human Resources, a supervisor, a member of the College's senior leadership, or a trusted faculty member or staff member
- Report the incident to State or local law enforcement
- Report the incident to an off-campus resource, such as a counselor or rape crisis organization
- Not report the incident at all
- Any combination of the above

All individuals have the right to be protected by the College from retaliation for reporting an incident, as well as the right to receive assistance and resources from Maria College as provided under this policy. A reporting individual and/or witness may choose to withdraw a report and/or decline or withdraw from participation or involvement from the College's reporting process, investigation process, and/or formal disciplinary process at any time.

Important Note regarding Employee Responsibilities: Except for employees who serve as a Confidential Resource under this policy, employees who are not themselves victims of sexual misconduct and who witness, overhear, are told of, learn of, or otherwise become aware of incidents of sexual misconduct are **required** to immediately refer **all** such incidents to the Title IX Officers, **especially whenever any students are involved**. Information required to be referred includes all relevant details about the alleged sexual misconduct shared by the reporting individual and any other information that may be relevant to the College in accurately determining what happened, including the names of the reporting individual, accused individual, and any witnesses, along with any additional relevant information, including the date, time, and specific location of events. In all cases, employees are expected to treat all information involved with the utmost privacy, regardless of how they first learned of the information. For more information, see Statement on Privacy and Confidentiality on page 5. Any individual who has questions regarding this requirement should speak with the Title IX Coordinator.

Reporting individuals and witnesses may disclose or report sexual misconduct to any of the following resources, among others:

On-Campus Reporting Options:

- Title IX Coordinator or Title IX Deputy Coordinator:
 - By telephone or in person (contact information listed above)
 - By submitting a [Sexual Misconduct Incident Report Form](#)
- Campus Security
 - By telephone or in person:
Campus Security
Main Building Lobby
518-376-0690
- Counseling Services: (confidential)
 - By telephone or in person
Michael Washco, LMHC
Director of Counseling Services
Marian Hall 2nd Floor
518-416-7293

Off-Campus Reporting Options:

- Law Enforcement:
 - 9-1-1
 - NYS Police Campus Sexual Assault Unit hotline: 1-844-845-7269
- Albany County Crime Victims & Sexual Violence Center
 - Crisis hotline: 518-447-7716
 - Main number: 518-447-7100
- Equinox Inc. Domestic Violence Services
 - Crisis hotline: 518-432-7865
 - Main number: 518-434-6135
- Sexual Assault and Crime Victims Assistance Program
 - 24-hour hotline: 518-271-3257
- In Our Own Voices
 - LGBT Domestic Violence Support Line: 518-432-4341
- Other individuals and community organizations, such as medical providers, licensed mental health counselors, and pastoral providers

For students who are under age 18, students' parents (or legal guardians) are entitled to submit an incident report on their behalf. For students who are aged 18 or older, Maria College will accept reports from parents/guardians, however, the College is limited to communicating information to parents/guardians pertaining to student disciplinary matters only to the extent authorized by the student and/or as authorized by law.

Confidential Reporting

While most employees of Maria College are required to refer information about potential incidents of sexual misconduct to the Title IX Officers, Maria College has designated one College official to

serve as Maria College's Confidential Resource who can offer full confidentiality:

Michael Washco, MS, LMHC, CASAC
Director of Counseling Services
Counseling Services Office, Marian Hall

Any conversation with the Confidential Resource will be kept completely confidential and will not be shared with any other person, except in the very rare and extreme circumstance where someone's safety is at risk. While the Confidential Resource will maintain an individual's confidentiality vis-à-vis the College, some professionals may have reporting mandates or other obligations under New York State law that may require breaking confidentiality under limited circumstances, such as mandatory reporting to law enforcement in case of sexual abuse of minors, and cases involving imminent harm to one's self or others. Individual who disclose incidents of sexual misconduct to the Confidential Resource must understand that, if the individual wants to maintain confidentiality, the College will be unable to conduct an investigation into particular incidents or pursue disciplinary action against the Accused.

The Confidential Resource may assist individuals in receiving other necessary protection and support, such as survivor advocacy; academic support or accommodations for disability, health and mental health services; and/or changes in residence halls, working and course schedules in coordination with the Title IX Coordinator. The Confidential Resource may also assist the individual in obtaining services and/or protections from State or local governments.

Individuals who initially request confidentiality may decide at later time to file a complaint with the College and/or report the incident to Albany Police, and thus have the incident investigated. The Confidential Resource will provide the reporting individual with assistance in contacting the Title IX Coordinator and initiating this report, if the individual wishes.

If an individual wishes to speak confidentially with someone about an incident but does not wish to speak with the Maria College Confidential Resource, he/she may speak with another individual who can offer confidentiality. Examples of other individuals who can offer confidentiality include...

- Medical providers
- Lawyers providing legal advice
- Licensed mental health counselors, psychologists, and social workers
- Pastoral counselors (e.g., priests and other clergy members)
- Local rape crisis centers and other confidential community resources

Anonymous Reporting

All reports of sexual misconduct made to Maria College will be handled the with utmost privacy; however, Maria College understands that, due to the sensitive and sometimes violent nature of the misconduct prohibited under this policy, some individuals only feel comfortable sharing information or reporting an incident anonymously. Individuals who prefer to make an anonymous report may do so by making a report to the Title IX Officers via telephone or by submitting the incident report form without providing their name and/or contact information. Individuals who wish to anonymously report an incident should be aware that their anonymity may inhibit Maria College's ability to conduct a full investigation of the incident, provide support to the reporting individual, and/or update

the reporting individual regarding actions taken.

Welfare of the Community (Amnesty) Policy

The health and safety of every student at Maria College is of utmost importance. Maria College recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that violence (including but not limited to domestic violence, dating violence, stalking, or sexual assault) occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct.

Maria College strongly encourages individuals to report domestic violence, dating violence, stalking, or sexual assault to College officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking or sexual assault to College officials or law enforcement will not be subject to disciplinary 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.

This policy may also be applied, but not limited to: alcohol or drug related incidents, cases of sexual misconduct, and/or situations of vandalism and damage. The policy only applies to the College's student and employee policies and has no legal effect or status in other jurisdictions outside Maria College, such as local or State courts.

Reporting to Law Enforcement

At any time, a reporting individual or witness may choose to file a report with local or State police, if desired. The reporting individual or witness is entitled to receive assistance from the College in initiating legal proceedings in family or civil court, if desired.

Maria College's Sexual Misconduct Policy is separate and distinct from New York State criminal laws. Accordingly, reporting individuals are entitled to pursue action under both systems simultaneously, and accused individuals who have committed sexual misconduct may be subject both to disciplinary action by Maria College and to potential prosecution under New York State criminal statutes.

The College may choose to pursue disciplinary action while criminal action is pending, or even if criminal justice authorities choose not to prosecute. The College will assist reporting individuals in contacting law enforcement and/or other appropriate authorities for the purpose of obtaining orders of protection or other similar relief available through the court system, and will, to the extent that it is able, facilitate the implementation of any on-campus or College program-related restrictions imposed by such orders.

In the case of reported sexual misconduct, a law enforcement investigation does not relieve the school of its independent obligation to investigate the report as required by federal and State law. Maria College's investigative and conduct process will run concurrently with any related criminal justice investigation and/or proceedings, except that Maria College may allow for temporary delays as requested by external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than ten (10) days except when law enforcement specifically requests and justifies a longer delay.

Disclosures During Advocacy Events: An Exception to the College's Obligation to Investigate

Individuals occasionally disclose information regarding sexual misconduct during a public awareness and/or advocacy event, such as candlelight vigils, protests, survivor speak-outs, Clothesline Project events, Take Back the Night events, Day of Unity events, and other similar public events. These events typically serve the purpose of empowering survivors and raising awareness about issues related to sexual violence, as opposed to serving as a forum in which formal reports are made. Accordingly, if an individual makes an allegation of sexual misconduct by another individual or otherwise discloses information relating to an incident of sexual misconduct during such an event, the College is not obligated to begin an investigation based on such information. The individual remains free at all times to file a report with the College if he/she chooses to do so. The College may use the information provided at such an event to inform efforts for additional education and prevention efforts.

"Timely Warning" Campus Alerts

When certain crimes occur in certain areas on and/or near campus that represent a serious or continuing threat to the campus community, Maria College is obligated under federal law to issue a timely warning in order to protect the safety of others. Crimes triggering a timely warning might include, for example, a rapist who is still present on or near campus. When a timely warning is issued, the warning will never identify any victims or reporting individuals. Determinations regarding issuance of timely warnings and assessments of what constitutes an ongoing or continuing threat are made by the Title IX Coordinator or Deputy Coordinator (either of whom may consult with the President, Senior Vice President and Dean of Students, or Vice President for Academic Administration).

Warnings will be issued via the Maria College email system by the Title IX Coordinator or the Dean of Students' Office through an email to students, faculty, staff and administrators. In such instances, a copy of the notice will also be posted in each on-campus building. Anyone with information warranting a timely warning should immediately report the information to a security officer or to the Title IX Coordinator or Deputy Coordinator. Such reports can be made by phone (518) 483-3111 or in-person. If any situation is deemed to be an emergency, Maria College will use its mass notification system to warn the community of any threat.

III. Investigations of Reported Sexual Misconduct

Initial Assessment and Notification of Allegations

Upon receipt of a report of alleged sexual misconduct, the College's Title IX Coordinator, Deputy Coordinator, or designee(s) will conduct an initial assessment of the report within 72 hours. The goal of this assessment is to identify next steps under this policy and to ensure the College responds in an appropriate, integrated, and coordinated manner to reports of sexual misconduct. In the majority of cases, the initial assessment will be conducted by two Title IX Officers who have received appropriate training.

When a report of alleged sexual misconduct names an accused individual who is a member of the Maria College community, the Title IX Officers will issue written notice to accused individual stating that an allegation against him/her has been made and providing a brief summary of the allegations in question.

At the conclusion of the initial assessment, the Title IX Officers (or designees) will determine next steps in regard to the report received, which may include: (i) investigation of the incident alleged in the report, to the extent able; (ii) dismissal of the report; or (iii) other action deemed appropriate in the judgment of the Title IX Officers. Maria College typically conducts investigations into all reports of sexual misconduct in order to fulfill its obligations under federal and State law; however, in certain limited circumstances, Maria College may be unable to fully conduct an investigation due to lack of sufficient information and/or circumstances beyond its control. Dismissal of a report may occur when moving forward with an investigation would be impossible, impractical, unproductive, or otherwise inappropriate as determined in the judgment of the Title IX Officers, including but not limited to: when a report contains insufficient information for College officials to move forward with an investigation; when the accused individual is beyond the jurisdiction of Maria College due to non-enrollment, non-employment, or other lack of affiliation with Maria College in a manner that allows the College to take action against the individual in accordance with this policy; and/or when, in the unanimous judgment of the Title IX Officers, a report reasonably and objectively appears to be a false report or “joke” report.

Investigation

If appropriate, the Title IX Officers (or their designee) will conduct an investigation into the incident reported. Individuals who have reported an incident of sexual misconduct – whether done so privately, confidentially, or anonymously – have the option of requesting that Maria College not conduct an investigation. Maria College will do its utmost to honor such a request by a reporting individual, to the extent as is determined to be reasonable in the judgment of College officials and as allowable under law; however, under certain circumstances, Maria College may determine that it is necessary to move forward with an investigation absent the consent of the reporting individual in order to protect the health and safety of other individuals and/or the Maria College community as a whole. In these cases, when the College determines that an investigation is necessary, the reporting individual will be notified in writing. Individuals who have submitted a report anonymously should be aware that their anonymity may inhibit Maria College’s ability to conduct a full investigation of the incident reported and/or to communicate with the reporting individual regarding actions taken.

In all cases, investigations will be fair, equitable, and timely, and will be conducted by appropriately trained individuals. Investigations will be completed in a timely fashion. In certain circumstances, investigation time frames may need to be extended (e.g., in June, July and August, when some faculty members are not available; when there are a significant number of witnesses to interview; when a complaint includes multiple allegations). The Title IX Coordinator (or designee) will periodically notify the accused individual (and reporting individual, if known) of the status of the investigation.

Investigation Record and Report

Within five (5) days of completing the investigation, absent extenuating circumstances, the Title IX Coordinator, Deputy Coordinator, or designee will prepare a written investigation record and report and submit it to the Title IX Office. The record and report, at a minimum, will include:

1. A copy of the written report, a summary of the complaint submitted, and/or a summary of the information disclosed by the reporting individual, as applicable;
2. A detailed summary of the accused individual's response to the complaint and the allegations therein;
3. A detailed record of all statements and evidence obtained during the investigation; and
4. A summary of and/or copies of any prior allegations, settlements, civil or criminal charges, or substantiated complaints against the accused individual which are known to Maria College;
5. A report of the investigatory team's (i) assessments of the statements and evidence collected, including identification of statements or evidence that contradict or concur, (ii) conclusions regarding the likelihood or probability of the allegations in question having actually occurred, and the rationale for such conclusions, and (iii) recommendation as to whether disciplinary action as prescribed under this policy is warranted; and
6. Other information determined in the judgment of the Title IX Officers to be relevant to the investigation of the reported incident.

All individuals have the right to exclude from discussion or consideration during the investigation and/or the disciplinary process their own prior sexual history with persons other than the other individuals involved in the matter in question.

If upon completion of the investigation, the Title IX Coordinator determines that a violation of Maria College's Sexual Misconduct Policy has likely occurred, the Title IX Coordinator will initiate the College's Formal Disciplinary Process against the accused individual in accordance with the procedures described in this policy. If the Title IX Coordinator determines that pursuing the College's Formal Disciplinary Process is not warranted, the Title IX Coordinator will issue simultaneous written notification to both the accused individual and the reporting individual (if known), stating the reason for dismissal of the report. Reports (or any portion or allegation comprising a complaint or report) may be dismissed by the Title IX Coordinator for reasons including but not limited to: (i) withdrawal of the report, or any portion or allegation comprising a complaint or report, by the reporting individual; (ii) lack of College jurisdiction over the accused individual; and (iii) specific circumstances that prevent the College from gathering evidence sufficient to reach a determination regarding the complaint or the allegations therein.

IV. Formal Disciplinary Process

If the Title IX Coordinator determines that the accused individual has likely occurred, the Title IX Coordinator will initiate Maria College's Formal Disciplinary Process in accordance with the following procedures. Maria College's Formal Disciplinary Process consists of a Conduct Hearing before a panel of impartial decision makers at which all involved individuals will have an opportunity to state their version of the alleged incident, present evidence, and share testimony from themselves or witnesses. Involved individuals are entitled to appeal the outcome of the

Conduct Hearing, if desired. All individuals designated by Maria College to implement its Formal Disciplinary Process – including but not limited to its Title IX Officers, panel of decision makers, and other relevant officials – are appropriately trained in adjudicating sexual misconduct matters and the College’s policies and procedures.

Notification of Disciplinary Proceedings

When the Title IX Officers decide to initiate the College’s Formal Disciplinary Process against an accused individual, the Title IX Coordinator will schedule a Conduct Hearing on the alleged violation (to be held at a campus location and date determined by the Title IX Coordinator) and will promptly issue written notification to the accused individual and to the reporting individual (if known).

The written notification will provide the following information: (i) a statement of the specific policy violation that the accused individual allegedly committed; (ii) the date on which the violation allegedly occurred; (iii) possible consequences and/or sanctions the accused individual may face in relation to the alleged violation; (iv) information regarding how the accused individual can dispute the violation alleged (including the date, time, and location of the Conduct Hearing at which the individual will be entitled to present evidence and/or testimony), and what (if any) temporary or interim measures will be imposed upon the accused individual while the Conduct Hearing is pending and/or in progress (such as interim removal or imposition of a “no contact” order). The written notifications will also notify the involved parties of their right to be accompanied at the Conduct Hearing by an advisor of choice.

The date selected for the hearing will be timely in that it will provide an accused individual a reasonable amount of time to prepare for the Conduct Hearing while also not constituting an unreasonable delay in resolving the incident. When an alleged violation involves more than one accused individual, or when one violated is alleged to have been committed by an accused individual, the Title IX Coordinator may determine in his/her discretion to schedule separate Conduct Hearings, as appropriate.

Structure of the Conduct Hearing

The Conduct Hearing will be conducted in a fair, impartial, thorough, and timely manner. The Conduct Hearing will be presided over by a Hearing Panel comprised of impartial individuals selected by the Title IX Coordinator. At the Conduct Hearing, the Title IX Coordinator (or another designated official) is responsible for presenting the College’s case, including a statement of the allegations, presenting the College’s investigatory findings, stating the policy violation in question, and presenting any relevant testimony and/or evidence from the investigation conducted which prove (to the extent required under this policy) that the accused individual did commit the policy violation in question. All accused individuals are entitled to a presumption of “not responsible” (not guilty).

When the Title IX Coordinator (or other designated official) has concluded the case presentation, the accused individual will have an opportunity to present his/her own version of events, including their own testimony, testimony by witnesses, and other evidence. If the reporting individual has elected to participate in the hearing, the reporting individual will then have the option (but is not required) to present a statement of his/her own, and may present any additional testimony or evidence that has not already been presented.

Once the Title IX Coordinator and the parties have all made their presentations, the parties are entitled to cross-examine each other and/or any witnesses who testified, if desired. Once any cross-examination is complete, the Title IX Coordinator will announce the conclusion of the hearing and dismiss all parties and witnesses. The Title IX Coordinator will ensure that a full and fair record of the hearing has been preserved and will be maintained for the parties to reference as prescribed by this policy.

The Hearing Panel will subsequently privately deliberate the matter (either upon conclusion of the hearing or at another reasonably prompt time). The Panel will render a decision as to whether the accused individual is “responsible” (guilty) or “not responsible” (not guilty) for the violation and will impose consequences and/or sanctions on an accused individual found “responsible”, if appropriate. Within 10 days of the Hearing, the Panel

will issue to the Title IX Coordinator a written report setting forth these determinations, as well as the Panel's rationale for such decisions. Within 5 days of receiving such report, the Title IX Coordinator will then issue written notice to all parties simultaneously regarding the Panel's decision as to the accused individual's responsibility and any imposed consequences / sanctions, as well as the rationale for such decisions.

Standard of Evidence

When implementing the Formal Disciplinary Process, the College is determining whether an individual is "responsible" or "not responsible" for an alleged violation of College policies. At all times, the burden is on the College to establish that a violation of this policy was committed by the accused individual as charged – this is not the responsibility of the reporting individual, nor is the burden on the accused individual to prove that he/she did not commit a policy violation. The standard of evidence required in both the Conduct Hearing and the Appeal Hearing (if one is sought) is a preponderance of evidence. "Preponderance of evidence" means that the relevant Hearing Panel must decide in favor of the party that, as a whole, has the stronger evidence that the violation was or was not committed, however slight the edge over the other party's evidence may be. "Preponderance of evidence" is sometimes described as "more likely than not" or "51% or greater 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.

In-Person vs. Remote Attendance/Participation at Hearings

Either party is entitled to request remote attendance at a hearing via virtual technology; the technology used must enable all Conduct Hearing participants to see, hear, and speak in real-time.

Non-Attendance

If the accused individual fails to or declines to attend the Conduct Hearing, the Hearing will be held without the accused individual present and the Panel may reach a decision of "responsible" and impose consequences and/or sanctions even in the accused individual's absence. Reporting individuals are entitled to (but are never required to) attend or participate in a Conduct Hearing; however, reporting individuals should be aware that any refusal to participate may impact the ability of the Hearing Panel to reach a decision.

Cross-Examination

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

Advisors

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

important resource to both reporting individuals and accused individuals during the College's Formal Disciplinary Process, Maria College will make reasonable efforts to accommodate the schedules of parties' advisors when scheduling proceedings and/or when considering requests to modify the date or time of a scheduled hearing.

Qualifications of College Officials

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

Record Keeping

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

V. Appeals Process

Any individual found "responsible" by a Conduct Hearing Panel may appeal the panel's decisions, including its determination of responsibility and/or the consequences/sanction imposed. An appeal may also be requested by the reporting individual, if he/she chose to participate in the College's Formal Disciplinary Process. Appeals are available on one or more of the following bases: (i) the occurrence of a procedural irregularity that could have affected the outcome of the hearing; (ii) the availability of new and/or additional evidence which was not reasonably available previously and which could have potentially affected the outcome of the matter; and/or (iii) the Title IX Coordinator, investigator, or decision maker(s) had a conflict of interest that could have affected the outcome of the hearing; and/or (iv) that the sanctions imposed are disproportionate to the policy violation in question.

If any individual wishes to appeal the decision of the Conduct Hearing Panel, whether in regard to its determination of responsibility or its imposed consequences/sanctions (or both), the individual must submit a written request for an appeal to the Office of the President of Maria College within 10 business days of receiving written notification of the panel's decision. The written request for appeal must include a brief statement of whether the student objects to the Conduct Hearing Panel's determination of responsibility, the imposed consequences/sanctions, or both, as well as include a brief statement of the individual's arguments as to why the Conduct Hearing Panel's decisions were inappropriate.

The President will typically appoint and convene an Appeal Hearing Panel within five days of receiving a request for appeal. The Appeal Hearing will be presided over by a panel of impartial individuals selected by the President of Maria College, comprised as follows:

- One faculty member, recommended by the Academic Affairs Committee;
- One staff member, recommended by the Director of Human Resources; and
- One Panel Chairperson, appointed by the President from the President's Senior Leadership

Team.

- In the event of a conflict of interest, the President will appoint an additional panel member from the campus community. No individual who served on the Conduct Hearing Panel for a given matter is permitted to serve on the Appeal Hearing Panel for the same matter.

Upon appointment of the Appeal Hearing Panel, the Title IX Coordinator will schedule an Appeal Hearing, to be held in a timely manner at a campus location and date determined by the Title IX Coordinator. Upon scheduling the Appeal Hearing, the Title IX Coordinator will provide written notification of the location, date, time, and basis for the Appeal Hearing to all parties involved.

The Appeal Hearing will be conducted in a fair, impartial, and thorough manner. The Appeal Hearing is conducted in accordance with the same procedures prescribed for the Conduct Hearing, except as otherwise noted. The Appeal Hearing Panel will hear all arguments presented in regard to whether the Conduct Hearing Panel's decisions were appropriate.

After all arguments have been presented, the Appeal Hearing Panel will privately deliberate and render a decision on the appealed issues and, if appropriate, impose revised consequences/sanctions on the accused individual. Within 10 days of the Appeal Hearing, the Panel will issue a written report to the Title IX Coordinator stating such decisions and the rationale therefore.

Within 5 days of receiving the Panel's report, the Title IX Coordinator will issue written notification summarizing the Appeal Hearing Panel's decisions and rationale to all involved parties. The Appeal Hearing Panel's decisions are final and are not subject to further appeal.

VI. Possible Sanctions

The following possible sanctions may be imposed against an accused individual upon being found "responsible" for a violation of Maria College's Sexual Misconduct Policy at a Conduct Hearing and/or Appeal Hearing. In addition, if at any point (whether during or prior to any such hearing) an individual's presence on campus creates a threat to the health, safety, and/or well-being of others, Maria College reserves the right to immediately remove on an interim basis that individual from campus until the time of the Conduct Hearing and/or Appeal Hearing.

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

- No Consequences/Sanctions: Where the Conduct Hearing panel (and/or the Appeal Hearing panel, in the event an appeal is sought) determines that an accused individual is 'not responsible', the disciplinary charges against the student will be dismissed and the individual's name will be cleared.
- Verbal Warning: A discussion with the accused individual about the incident, with no written notification issued.
- Written Warning: A written notice to the accused individual stating that his/her conduct is in violation of College regulations and that the continuation of said conduct during a stated period of time may be cause for more serious disciplinary action, such as community service, probation, or suspension.

- **Counseling and/or Training:** A requirement that an accused individual undergo appropriate counseling and/or training in order to remain a member of the College community.
- **Restitution:** Financial reimbursement for damages to property.
- **Community Service:** A stated number of hours, set in writing, of donated service commensurate with the conduct violation.
- **Prohibitions on Academic Oversight:** A prohibition on an employee (particularly a faculty member) from participating in grading, honors, and recommendations.
- **Review of Employment Progress:** A review of an employee's re-appointment and/or promotion decisions or other performance evaluations.
- **Resource Restrictions:** Restriction of limitation of an employee's access to College resources, including but not limited to salary increases for a specified period of time.
- **'No Contact' Order:** An order from the College requiring the accused individual to stay away from the victim for a stated period of time. Academic schedules and/or work schedules may also be amended.
- **Disciplinary Probation:** A stated period of time, set in writing, during which the accused individual is expected to demonstrate appropriate conduct as a member of the College community. Failure to demonstrate appropriate conduct may subject the accused individual to further consequences/sanctions, such as community service and/or suspension.
- **Disciplinary Suspension:** A stated period of time, set in writing and not to exceed one academic year, during which the accused individual is excluded from classes, campus work, and/or campus activities or programs. Upon the expiration of the suspension period, the accused individual may be subjected to a probation period during which the individual is expected to demonstrate appropriate conduct as a member of the College community. When the accused individual is a student and the individual's punished conduct involves certain types of violence, this sanction automatically results in a Transcript Notation sanction.
- **Disciplinary Dismissal from the College (Expulsion / Termination):** Permanent termination of status as a student and/or employee of the College. When the accused individual is a student and the individual's punished conduct involves certain types of violence, this sanction automatically results in a Transcript Notation sanction.
- **Transcript Notation:** Where a student is found 'responsible' for a violation involving certain types of violence, including sexual violence such as rape or sexual assault, and is then subjected to either suspension or expulsion from the College, the student's transcript will automatically receive a notation stating "Suspended after a finding of responsibility for a Code of Conduct violation" or "Expelled after a finding of responsibility for a Code of Conduct violation," as appropriate. Where a student withdraws from the College while such charges are pending, the student's transcript will receive a notation stating "Withdrew with conduct charges pending." Transcript notations regarding expulsion, withdrawal, and suspension shall be permanent.
- **Other consequences and/or sanctions as deemed appropriate by the Conduct Hearing Panel and/or Appeal Hearing Panel.**

When an accused individual is determined to be "responsible" and sanctioned, copies of the investigatory report and the Panel's decision will be filed in the individual's employee file in the Office of Human Resources and/or in the individual's education record in the Registrar's Office, as applicable.

Enforcement of Compliance with Sanctions and/or Interim Measures

The Title IX Deputy Coordinator is responsible for monitoring compliance with decisions made and sanctions imposed under this policy, as applicable.

The Title IX Coordinator will notify appropriate campus community members of any sanctions

that trigger monitoring responsibilities. Failure to observe the terms and/or conditions of any Maria College determinations, sanctions, consequences, and/or interim measures may constitute grounds for additional disciplinary action by the Title IX Officers.

VII. Resolution Through Other Means

If individuals are not satisfied with the resolution of an incident of sexual misconduct under this policy, they may seek resolution through other sources, including but not limited to the processes overseen by the New York State Division of Human Rights, the federal Equal Employment Opportunity Commission (E.E.O.C.), or the U.S. Department of Education's Office of Civil Rights (OCR).

VIII. Resources & Support

Obtaining Immediate Medical Attention and Emotional Support

Maria College is committed to assisting anyone who experiences sexual misconduct with seeking comprehensive medical attention as soon as possible to treat injuries, obtaining preventative treatment for sexually transmitted diseases, and preserving evidence, among other things. For rapes in particular, immediate treatment and preservation of evidence of the assault are important for many reasons, including facilitating a criminal investigation.

Maria maintains a list of resources, including rape crisis centers and domestic violence shelters, available throughout the Capital District. This list includes information about Albany Memorial Hospital, which is specially equipped to handle sexual misconduct and trained to gather evidence from such assaults. The Sexual Assault and Crime Victims Assistance Program at Memorial Hospital provides medical exams to victims/survivors of sexual assault. As part of this program, an advocate is available to assist and support victims/survivors through the process through Albany County (http://www.nehealth.com/Medical_Care/SAM/Sexual_Assault_Center/).

On-Campus Emotional Support

Individuals who have experienced or witnessed sexual misconduct are encouraged to seek emotional support as soon as possible, either on or off campus. The only on-campus confidential resource is the Director of Counseling Services, who is trained to provide crisis intervention:

Michael Washco, MS, LMHC, CASAC
Director of Counseling Services
Counseling Services Office, Marian Hall
(518) 416-7293 mwashco@mariacollege.edu

Supportive Measures, Protections, and Other Interim Measures

Maria College is committed to supporting victims and survivors of sexual misconduct and sexual violence regardless of where or when the incident occurred and/or who committed the acts in question. The College is similarly committed to supporting individuals who have been accused of sexual misconduct, and all members of the Maria College community are equally entitled to access

appropriate resources, support services, and protections made available. In addition to existing on-campus and off-campus resources, Maria College is prepared to offer certain supportive measures, protections, and reasonable campus accommodations. Examples of such measures may include but not be limited to:

No Contact Order: The College may, in its discretion, issue a “no contact” order whereby the accused individual’s continued intentional communications to and/or contact with the reporting individual constitutes a violation of this policy subject to additional disciplinary action.

Under such an order, if the accused individual and a reporting individual observe each other in a public place or Maria College common space, it is the responsibility of the accused individual to leave the area immediately and to do so without contacting or speaking to the reporting individual. If necessary, the College may establish a schedule for the individuals involved to access College buildings and property at separate times. Violating the “no contact” order could subject the accused individual to additional consequences and/or the involvement of law enforcement.

Order of Protection: Orders of protection and/or restraining orders are similar to “no contact” orders, except that they are imposed by the local police, not by the College. If an accused individual violates an order of protection or restraining order, they could be arrested. Maria College will provide assistance to individuals in obtaining an order of protection or restraining order from law enforcement, if desired. The College reserves the right to impose consequences on accused individuals who violate orders of protection and restraining order, such as initiating additional disciplinary proceedings and/or subjecting the accused individual to interim removal. Maria College will also provide assistance, as desired, in contacting and assisting local law enforcement in effecting an arrest for violating such an order.

Interim Removal: When the accused individual presents an immediate, imminent, ongoing, and/or continuing threat to the health and safety of the College community, Maria College may subject the individual to interim removal or otherwise impose a “persona non grata” status (i.e., unwelcome to visit the campus) pending the outcome of the Formal Disciplinary Process. In cases where the accused individual is an employee, the individual may be placed on either paid or unpaid leave of absence in accordance with the College’s employment policies.

Additional interim measures or reasonable accommodations that Maria College is prepared to provide to individuals (as requested and as appropriate under the circumstances) may include, but are not limited to:

- Access to counseling services and assistance in arranging an initial appointment
- Rescheduling of exams and assignments
- Changes in class schedules
- Changes in work schedules and/or job assignments
- Changes in housing arrangements and/or assistance finding alternate housing
- Changes in transportation arrangements and/or assistance finding alternate transport

- Arranging for medical services
- Other protections, services, accommodations, and remedies that may be appropriate under the circumstances and can be used to achieve the goals of this policy

To request any of these measures, please contact the Title IX Officers. The Title IX Coordinator will then make the necessary arrangements, including coordinating with other campus offices as needed, in order to maintain your privacy. Upon request, both the accused individual and the reporting individual will have the opportunity to provide their perspective on the need for any interim measure or accommodation that affects him/her, the terms of such measure, and the potential for modifying such measure, and will be allowed to submit evidence in support of their views.

Interim measures are designed to preserve the Maria College educational and/or employment experience, protect the safety of all parties and the broader campus community, maintain the integrity of the investigative and/or disciplinary process, and deter retaliation against individuals for exercising rights or otherwise participating in or cooperating with College officials in accordance with this policy. The Title IX Coordinator (or designee) may provide interim measures regardless of whether or not the Complainant seeks formal disciplinary action. The Title IX Coordinator (or designee) will work collaboratively with the Senior Vice President and Dean of Students and the Vice President for Academic Administration in providing interim measures.

Section III – Institutional Compliance

I. Record Keeping

Maria College will preserve and maintain case files for all reports received by the Title IX Coordinator. Case files will include a copy of the written report and/or a summary of the report or complaint and/or the allegations comprising it. If the report results in an investigation, the case file will also include a copy of the investigatory report. For any matters which were addressed through Maria College's Formal Disciplinary Process, the case file will include a full and fair record of the Conduct Hearing and, as applicable, the Appeal Hearing. For all hearings, the College is required to create either an audio-visual record or a transcript of proceedings. Parties are entitled to inspect and review their hearing records, subject to reasonable limitations by the College as to time and nature of access. Maria College will maintain records as described for a period of seven years.

II. Compliance with the federal Jeanne Clery Act

In accordance with the federal Jeanne Clery Act, Maria College reports statistics regarding all incidents of domestic violence, dating violence, stalking, and sexual assault in the College's Annual Security and Fire Safety Report. The report includes statistics for the previous three years concerning reported crimes and institutional policies addressing campus security. To obtain a copy of this report contact the Business Office, Main Building, room 100A.

III. 129-B Reporting

The Title IX Coordinator, or designee, will provide the President of the College and the Senior Leadership Team with an annual confidential report detailing the number and disposition of various types of incidents, allegations, reports, and complaints of sexual misconduct that have come to their attention that year. No identifying information of any kind is included in this report. A summary of this report may be provided to the College community as long as confidentiality of individuals' identities is not breached or significantly jeopardized by doing so. The President shall determine the propriety of issuing a summary and/or report to the entire College community. In addition, the Title IX Coordinator or designee will file a report annually of the aggregate data to the New York State Department of Education as required by New York State law.

APPENDIX

Appendix I: EXAMPLES OF SEXUAL MISCONDUCT

To help all members of the Maria College community better understand the expectations under this policy, this section provides examples of sexual misconduct (including sexual harassment, domestic violence, dating violence, and stalking). Additional information can be found in the “Definitions & Terminology” section of this policy, and all students and employees are welcome to ask questions of the Title IX Officers at any time.

Domestic Violence & Dating Violence

Domestic violence and/or dating violence is a pattern of coercive behaviors that serves to exercise control and power in an intimate relationship. The coercive and abusive behaviors can be physical, sexual, psychological, verbal and/or emotional. Relationship abuse can occur between current or former intimate partners who have dated, lived together, currently reside together on or off campus, or who otherwise connected through a past or existing relationship, and can occur in opposite sex, same-sex, and non-binary relationships.

Domestic violence and/or dating violence includes, but is not limited to: attempting to cause or causing bodily injury by hitting, slapping, punching, hair pulling, kicking, and/or other forms of unwanted physical contact that causes harm; knowingly restricting the movements of another person; isolating or confining a person for a period of time; controlling or monitoring behavior; being verbally and/or emotionally abusive; and exhibiting extreme possessiveness or jealousy.

Stalking

Examples of stalking behavior include, but are not limited to:

- Unwelcome communication through a variety of methods, including face-to-face or via phone, text, email, voice messages, written messages, gifts, etc.; pursuing and/or following another person or group;
- Surveillance, voyeurism, monitoring, or otherwise watching an individual without their knowledge or consent, whether in-person or through technology;
- Trespassing, breaking & entering, burglary, or otherwise gaining unauthorized access to an individual’s residence, work area, or other premises;
- Gaining unauthorized access to personal, medical, financial, or any other identifying information without explicit permission;
- Accessing email, phone or other forms of personal communication in order to follow or monitor another's activity.

Cyber-stalking is an extension of the physical form of stalking and is unacceptable at any level. Using electronic media such as the Internet, social networking sites, cell phones or similar devices or mediums to pursue, track, harass, monitor or make unwanted contact with another person may constitute stalking in violation of Maria College’s sexual misconduct policy.

Sexual Harassment

Sexual harassment can take a variety of forms. The following pages illustrate a few of the common ways that sexual harassment can occur on a College campus and in the workplace.

Example 1: Not Taking “No” for an Answer

Li Yan's coworker Ralph has just been through a divorce. He drops comments on a few occasions that he is lonely and needs to find a new girlfriend. Li Yan and Ralph have been friendly in the past and have had lunch together in local restaurants on many occasions. Ralph asks Li Yan to go on a date with him—dinner and a movie. Li Yan likes Ralph and agrees to go out with him. She enjoys her date with Ralph but decides that a relationship is not a good idea. She thanks Ralph for a nice time, but explains that she does not want to have a relationship with him. Ralph waits two weeks and then starts pressuring Li Yan for more dates. She refuses, but Ralph does not stop. He keeps asking her to go out with him.

Question 1. When Ralph first asked Li Yan for a date, this was sexual harassment. True or False?

FALSE: Ralph's initial comments about looking for a girlfriend and asking Li Yan, a coworker, for a date are not sexual harassment. Even if Li Yan had turned Ralph down for the first date, Ralph had done nothing wrong by asking for a date and by making occasional comments that are not sexually explicit about his personal life.

Question 2. Li Yan cannot complain of sexual harassment because she went on a date with Ralph. True or False?

FALSE: Being friendly, going on a date, or even having a prior relationship with a coworker does not mean that a coworker has a right to behave as Ralph did toward Li Yan. She has to continue working with Ralph, and he must respect her wishes and not engage in behavior that has now become inappropriate for the workplace.

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Li Yan complains to her supervisor, and the supervisor (as required) reports her complaint to the person designated by her employer to receive complaints. Ralph is questioned about his behavior and he apologizes. He is instructed by the designated person to stop. Ralph stops for a while but then starts leaving little gifts for Li Yan on her desk with accompanying love notes. The love notes are not overtly offensive, but Ralph's behavior is starting to make Li Yan nervous, as she is afraid he may start stalking her.

Question 3. Ralph's subsequent behavior with gifts and love notes is not sexual harassment because he has stopped asking Li Yan for dates as instructed. He is just being nice to Li Yan because he likes her. True or False?

FALSE: Li Yan should report Ralph's behavior. She was entitled to have effective assistance in getting Ralph to stop his inappropriate workplace behavior. Because Ralph has returned to pestering Li Yan after being told to stop, he could be subject to serious disciplinary action for his behavior.

Example 4: Too Close for Comfort

Keisha has noticed that her new boss, Sarah, leans extremely close to her when they are going over the reports that she prepares. She touches her hand or shoulder frequently as they discuss work. Keisha tries to move away from her in these situations, but she doesn't seem to get the message.

Question 1. Keisha should just ignore Sarah’s behavior. True or False?

FALSE: If Keisha is uncomfortable with Sarah’s behavior, she has options. If she feels comfortable doing so, she should tell Sarah to please back off because her closeness and touching make her uncomfortable. Another option is to complain directly to a person designated by her employer to receive complaints, who will speak with Sarah. Although this may not be sufficiently severe or pervasive to create an unlawful harassment situation (unless it was repeated by Sarah after she was told to stop), there is no reason for Keisha to be uncomfortable in the workplace. There is no valid reason for Sarah to engage in this behavior.

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Before Keisha gets around to complaining, Sarah brushes up against her back in the conference room before a meeting. She is now getting really annoyed but still puts off doing anything about it. Later Sarah “traps” Keisha in her office after they finish discussing work by standing between her and the door of the small office. Keisha doesn’t know what to do, so she moves past her to get out. As she does so, Sarah runs her hand over Keisha’s breast.

Question 2. Sarah’s brushing up against Keisha in the conference room could just be inadvertent and does not give Keisha any additional grounds to complain about Sarah. True or False?

FALSE: Sarah is now engaging in a pattern of escalating behavior. Given the pattern of her “too close” and “touching” behavior, it is unlikely that this was inadvertent. Even before being “trapped” in Sarah’s office, Keisha should have reported all of the behaviors she had experienced that had made her uncomfortable.

Question 3. Sarah touching Keisha’s breast is inappropriate but is probably not unlawful harassment because it only happened once. True or False?

FALSE: Any type of sexual touching is very serious and does not need to be repeated to constitute sexual harassment. Keisha should immediately report it without waiting for it to be repeated. Sarah can expect to receive formal discipline, including possible firing.

Source: <https://www.ny.gov/programs/combating-sexual-harassment-workplace>

Appendix II:

MARIA COLLEGE COMMUNITY MEMBER BILL OF RIGHTS

Maria College is committed to maintaining a community environment that fosters respect for the dignity and worth of each individual. The dignity of the individual should never be violated in any way, and the College community views with seriousness offenses against any person. Maria College is committed to providing options, support and assistance to victims/survivors of sexual misconduct, sexual harassment, domestic violence, dating violence, and/or stalking so that they can continue to participate in college-wide and campus programs, activities, and employment. Maria College is committed to addressing reports of sexual misconduct, sexual harassment, domestic violence, dating violence, and/or stalking in a prompt, fair, equitable, and impartial manner. All victims/survivors of these crimes and violations have the following rights regardless of whether the crime or violation occurs on campus, off campus, or while studying abroad.

Victims/Survivors/Reporters have the right to:

1. Make a report to local law enforcement and/or the State Police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the conduct process and/or criminal justice process free from pressure by Maria 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 Maria 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 institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by Maria College, any student or employee, the accused or the reporting individual, or any other person under the College's jurisdiction, and/or their friends, family, and acquaintances, as 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 conduct process, including during all meetings and hearings related to such process;
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or conduct process of the institution; and
12. Be provided with a written copy of the College's policy and procedures regarding sexual misconduct.

Appendix III: INCIDENT REPORT FORM



Where to submit this form:

Reports about or from students: Student Support Suite (Mercy Hall) or Security Desk (Main Building Lobby)
Reports about faculty/staff/other: Office of Human Resources or Security Desk (Main Building Lobby)
Reports about sexual misconduct: Title IX Coordinator (Mercy Hall)

Incident Report Form

All members of the Maria College community are welcome and encouraged to report incidents that they experience or witness, as well as behavior or conduct of others that raises concerns regarding an individual's mental health. For a full list of student behavior prohibited by the Maria College Student Code of Conduct, including sexual misconduct and academic misconduct, please refer to the Student Handbook. For a full list of faculty or staff behavior prohibited by College employment policies, please refer to the Employee Handbook.

Submitting this form constitutes a formal complaint and may result in the College conducting an investigation or taking disciplinary action against an individual who committed misconduct, if appropriate. For incidents involving sexual misconduct, the College will generally seek your consent before conducting an investigation. You may also submit a complaint anonymously, however remaining anonymous may inhibit the College's ability to conduct a full investigation of the incident and/or communicate with you regarding actions taken.

Incident reports about or from **students** should be submitted to the administrative assistant in the Student Support Suite located in Mercy Hall or Security Desk in the Main Building Lobby. Incident reports about **faculty or staff**, from faculty or staff, should be submitted to the Office of Human Resources or Security Desk in the Main Building Lobby. Incident reports related to **sexual misconduct** should be submitted to the Title IX Coordinator located in Mercy Hall.

Your Name (optional): _____

Your Affiliation to Maria College: ☐ Student ☐ Faculty/Staff ☐ Other:

Phone: _____ Email: _____

Name(s) of individual(s) involved (if known):

Their Affiliation to Maria College: ☐ Student ☐ Faculty/Staff ☐ Other:

Duration of the behavior being reported: ☐ Single Incident ☐ Multiple Incidents/Ongoing



Incident Report Form

Where to submit this form:

Reports about or from students: Student Support Suite (Mercy Hall) or Security Desk (Main Building Lobby)

Reports about faculty/staff/other: Office of Human Resources or Security Desk (Main Building Lobby)

Reports about sexual misconduct: Title IX Coordinator (Mercy Hall)

Incident Date(s) and Time: _____

Incident Location(s): _____

Witnesses or other people who may have helpful information:

Have you already notified any other College officials about this individual's behavior?

☐ **Yes. Who?** _____ ☐ **No**

Have you already notified any law enforcement agency about this individual's behavior?

☐ **Yes. Who?** _____ ☐ **No**

Description of incident: (Please be as detailed as possible. Think: who, what, where, when, why, how.)

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

You are welcome and encouraged to submit documentation in support along with this form.

This section to be completed by Maria College officials:

Date/Time Report Received: _____

Received By (name and office): _____

Report referred to another office of the College?

☐ No. This will be addressed by the receiving office.

☐ Yes. Referred to: _____

Notes: _____



Acknowledgement of Receipt

I acknowledge that I have read and understand Maria College's Sexual Misconduct Policy. I understand that the rules and policies contained in the Sexual Misconduct Policy may be updated, modified, or deleted at any time and that it is my responsibility to stay informed of any changes.

I will comply with the rules and regulations of Maria College prohibiting sexual misconduct and guidelines relative to preventing sexual harassment and other forms of misconduct.

_____	_____	_____
Employee Name (Printed)	Signature	Date

* Acknowledgement of Receipt for Maria College **Employees** and **Students** must be returned to the Title IX Coordinator.