

**Le Moyne College**  
**Faculty and Staff Policy on Sexual Harassment and**  
**Sexual Misconduct**

*Effective October 1, 2015*

## **Faculty and Staff Policy on Sexual Harassment and Sexual Misconduct**

### **I. Introduction**

As an institution of higher education with a longstanding Jesuit and Catholic tradition, Le Moyne College works to promote an environment and collective attitude that encourages students, faculty, staff and administrators to serve others, participate in the life of the College, and act as responsible members of the community. Acts of sexual harassment or other sexual misconduct, including sexual assault, domestic violence, dating violence or stalking, undermine the dignity of individuals and the principles of equality and respect for others and are serious violations of our community standards. These acts do not just harm the individual; they harm the College community as a whole. As used in this Policy, “Sexual Misconduct” is a term used to refer to any form of sexual or gender-based harassment, non-consensual sexual activity, dating violence or domestic violence, or stalking. Sexual Misconduct may occur between members of the community regardless of their gender identity or sexual orientation. Le Moyne College does not condone or tolerate Sexual Misconduct.

The College aims to ensure that all members of the Le Moyne community can learn, live and work free from being subjected to Sexual Misconduct. All employees are encouraged to read this Policy and develop a clear understanding of what is and is not acceptable sexual behavior.

This Policy will outline clear procedures for reporting Sexual Misconduct which involve current Faculty or Staff, and does not involve Students. (The College’s Policy on Sexual Harassment and Sexual Misconduct for Students covers Sexual Misconduct cases that involve a student as either a reporting party or a respondent.) In the event of any conflicts between the standards and procedures of this Policy and those of other College policies (including any Student, Staff or Faculty Handbook provision), other standards established through the Faculty Senate, or otherwise, the standards and procedures of this Policy will govern. The sections of the Faculty Handbook that cover grievances and dismissal procedures are also superseded by this Policy except in those cases where the faculty member’s defense involves an appeal to academic freedom. In those cases, the procedures of this Policy shall be initiated first, and if disciplinary action is imposed upon a Faculty Member, he or she may invoke the provisions of Regulation F3 of the Faculty Handbook. This Policy outlines various categories of Sexual Misconduct to include: sexual harassment, non-consensual sexual activity, domestic violence, dating violence and stalking.

Through these policies and procedures, Le Moyne College looks to achieve several goals:

- A campus climate which encourages prompt reporting of Sexual Misconduct.
- To provide prompt support services to the reporting party and the responding employee.
- To provide a comprehensive system that informs the reporting party and respondent of the rights and services available to them.
- To cultivate a campus community where instances of Sexual Misconduct are avoided through an ongoing campaign of education, training and mutual respect for each other.

This Policy protects the rights of both the reporting and responding parties. The responding party shall be free from sanction, pending the conclusion of a case. However, where the nature of the case indicates that there is a potential danger to the immediate well-being of the College community or specific persons within the College community, appropriate interim measures (up to and including temporary suspension from the College and/or removal from campus) may be taken by the Title IX Coordinator, in conjunction with the Vice President with responsibility for the respondent's area. In addition, accommodations such as a change in working situations may be made to protect either or both of the parties and prevent retaliation. Providing accommodations should not be viewed as prejudging responsibility for any alleged violation.

The protections in this Policy apply regardless of race, color, national origin, religion, creed, age, disability, sex, gender, identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status or criminal convictions.

## **II. Scope of Policy**

This Policy defines criteria and procedures for responding to queries and complaints regarding Sexual Misconduct, and applies to all Faculty and Staff members of the College. Under this Policy an individual can file reports on behalf of themselves or others, or the College may choose (and in some cases may be obligated) to pursue a matter it becomes aware of even in the absence of a reporting party. This Policy covers activity that has taken place either on the Le Moyne campus or at College-sponsored events or programs off-campus. The criteria and report procedures outlined below may also apply to off-campus situations where one member's behavior interferes with another's well-being and full participation as a member of the College community.

### **A. Reports by or Against Students**

This Policy does not apply to reports by or against a student. Those are covered under the College's Policy on Sexual Harassment and Sexual Misconduct for Students.

### **B. Reports by or Against Visitors or Non-Community Members**

If Faculty or Staff member wishes to bring forward a report of Sexual Misconduct against a visitor or other non-community member (e.g., an alumnus or alumna, a prospective student, a guest of a student, a member of another College's team, a local resident), the report should be made to Campus Security at 315-445-4444. Campus Security will investigate reports against such persons, and the College will determine the appropriate action to be taken, which may include contacting law enforcement.

If a visitor wishes to report a violation of this Policy by a College employee related to a College program, event or other College activity, or a campus incident, they may do so by reporting to the Title IX Coordinator. The Title IX Coordinator will appoint one or more investigators, if appropriate, and follow the procedures set forth in this Policy. If the alleged respondent is not an employee, the Title IX Coordinator will determine an appropriate manner to proceed.

### **C. On Campus and Off-Campus Behavior**

This Policy applies to conduct that occurs on any part of Le Moyne's campus or property. It also applies when Faculty or Staff travel off-campus as part of a College activity, team, organization or event. Additionally, Le Moyne has the discretion to discipline behavior that occurs elsewhere off-campus, and/or during a time when the College is not in session. In making these determinations, the Title IX Coordinator considers whether the behavior impacts the campus environment (as would be the case, for example, if one employee sexually assaults another employee off-campus or overseas during a semester abroad program, or if an employee sends another employee lewd and/or threatening sexual emails from home). In understanding this aspect of Le Moyne's expectations for behavior, it may be helpful to think of Community status as "portable" and therefore operative even when not on Le Moyne's campus or property.

### **D. Timeframe for Making a Complaint**

While there is no time limit for bringing forward a report, the passage of time may make an incident difficult or even impossible to investigate fairly or fully and to adjudicate. Therefore, persons who believe that they have been a victim of Sexual Misconduct are encouraged to make a report as soon as possible after an incident has occurred.

## **III. Definitions of Sexual Harassment, Non-Consensual Sexual Activity, Domestic Violence, Dating Violence and Stalking**

Le Moyne College has defined several categories of Sexual Misconduct below, for which sanctions may be imposed. Sexual Misconduct of any nature is a serious violation and Le Moyne reserves the right to impose any sanctions including suspension or termination from the College. Also, Faculty and Staff have the right to contact law enforcement for Sexual Misconduct at any level defined below.

For the purposes of this Policy, Sexual Misconduct includes:

### **A. Sexual Harassment**

Federal and state laws prohibit sexual harassment. These laws include Title VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972 and the New York State Human Rights Law. This Policy prohibits conduct that would violate these laws. However, as a supportive and collegial community, Le Moyne also prohibits behavior that sexually demeans or humiliates other community members as described below, even if the conduct does not violate the law.

Sexual harassment refers to unwelcome sexual or gender-based conduct. When sexual harassment becomes so severe or pervasive as to interfere with an individual's ability to work, learn or participate in the College's programs, it is called a sexual or gender-based "hostile environment." Harassing conduct can occur in various forms, including physical, verbal, written, visual or electronic (e.g., emails, text messages, personal blogs, social networking site posts or other online activity) conduct that relates to sex, gender or sexual identity.

A determination as to whether a hostile environment has been created depends on the totality of the circumstances, such as the severity of a particular incident, the context in which it occurred, whether the conduct was repeated, whether the conduct was verbal or physical, and whether it was threatening or merely annoying. Le Moyne reserves the right to discipline offensive conduct that is inconsistent with community standards even if it does not rise to the level of a hostile environment as defined by applicable law. Further, the College encourages employees to report incidents that concern them even if the incidents are not particularly egregious, as early reporting assists the College to address and correct situations before they become so severe or pervasive as to create a hostile environment.

Le Moyne also prohibits “quid pro quo” harassment. “Quid pro quo” (or “this for that”) harassment occurs when a person in a position of authority or control links the receipt of some benefit (such as a raise or promotion) to another’s submission to unwelcome sexual advances or sexual conduct or requires the other to perform or submit to demeaning or degrading sex or sexually-charged acts. “Quid pro quo” harassment can be expressly stated, but it also can be implied by words, actions or the surrounding circumstances.

## **B. Non-Consensual Sexual Conduct**

Any sexual activity without mutual consent, including sexual assault, is prohibited. Violations of this Policy include but are not limited to the following:

### **Category 1 Non-Consensual Sexual Conduct**

Category 1 Non-Consensual Sexual Conduct includes any sexual penetration, regardless of how slight, with any type of body part or object (including but not limited to sexual intercourse) by one person upon another person without consent. Sexual penetration includes, but is not limited to, vaginal or anal penetration by a penis, finger, tongue or object, as well as oral copulation by mouth to genital contact or genital to mouth contact. Additionally, conduct that would otherwise constitute Category 2 or 3 Non-Consensual Sexual Conduct which involves any level of physical violence will be considered Category 1 Non-Consensual Sexual Conduct.

### **Category 2 Non-Consensual Sexual Conduct**

Category 2 Non-Consensual Sexual Conduct is any intentional sexual touching, however slight, with any type of body part or object by one person upon another without consent, and which does not rise to the level of Category 1. Sexual touching includes any contact, directly or through clothing, with the genitals, breasts, groin, mouth or buttocks of another individual, or any other bodily contact in a sexual manner. Sexual touching also includes causing another to touch one’s intimate bodily areas, or disrobing another, without consent.

### **Category 3 Non-Consensual Sexual Conduct (Sexual Exploitation)**

Category 3 Sexual Exploitation occurs when a person takes non-consensual sexual advantage of another for his/her own benefit or to benefit someone other than the individual being exploited, and that behavior does not otherwise constitute sexual harassment or Category 1 or Category 2 Non-Consensual Sexual Conduct as defined above. Examples of sexual exploitation include, but are not limited to:

- Sexual voyeurism (without consent or exceeding the bounds of consent watching another engage in private or intimate activities such as, but not limited to, undressing, showering/bathing, using the bathroom or engaging in sexual activity)
- Non-consensual video, photography or audio taping of private or intimate activities such as, but not limited to, undressing, showering/bathing, using the bathroom or engaging in sexual activity)
- Without consent of all involved or exceeding the bounds of such consent, allowing others to watch private or intimate activities (such as, but not limited to, undressing, showering/bathing, using the bathroom or engaging in consensual sexual activity) by means such as, but not limited to, hiding in a closet, using a webcam, distributing video, etc.
- Engaging in sexual activity with another while knowingly being infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) without informing the other person of the infection
- Acts of incest
- Prostitution or promoting prostitution
- Administering to another person without their knowledge or consent alcohol or drugs (to include “date rape” drugs) for the purpose of engaging or attempting to engage in sexual activity or exploitation.

### **C. Domestic Violence, Dating Violence and Stalking**

Domestic violence means a felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the reporting party, a person with whom the reporting party shares a child in common, a person who is cohabitating with or has cohabitated with the reporting party as a spouse or intimate partner, a person similarly situated to a spouse of the reporting party under the domestic or family violence laws of the jurisdiction in which the act occurs, or any other person against an adult or youth reporting party who is protected from that person’s acts under the domestic or family violence laws of that jurisdiction. Violence may include physical assault (hitting, pushing, kicking, shoving, etc.) and/or sexual abuse (unwanted or forced sexual activity).

Dating violence means abuse committed by a person who is or has been in a social relationship of a romantic or intimate nature with the reporting party. The existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship. Forms of abuse constituting dating violence can be physical (including sexual). Dating violence does not include conduct constituting domestic violence as defined above.

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person under similar circumstances and with similar identities to the reporting party to fear for the person's safety or the safety of others, or suffer substantial emotional distress (that may, but does not necessarily, require medical or other professional treatment or counseling). Stalking includes, but is not limited to, repeatedly (i.e., on two or more occasions) engaging in: contact, face-to-face communication, telephone calls or messages, text messages, emails or letters to or about a person; the giving of unwanted gifts; threatening or obscene gestures; or surveillance, following, trespassing or vandalism.

The above definitions and explanations are provided for educational and illustrative purposes. A person reporting an incident need not worry about which category of Sexual Misconduct applies to or whether all elements of a particular definition of misconduct have been met. An individual reporting an incident is expected only to relay the facts in good faith; College representatives trained in responding to Sexual Misconduct will assist the reporting party in determining whether the incident may constitute a violation of this Policy.

#### **IV. Consensual Relationship**

Romantic and/or sexual relationships that might be acceptable in other circumstances always pose inherent risks that they will result in sexual harassment or sexual misconduct when they occur between members of the College community where a significant power or status differential between the parties exists. Voluntary consent by a student or a subordinate in a dating relationship, even if present, is always suspect, given the fundamentally asymmetrical nature of status and power.

The potential for abuse of power or sexual exploitation is particularly strong when a College Staff or Faculty member engages in a romantic and/or sexual relationship with a student he or she is supervising, teaching, advising, and/or evaluating. The relationship puts the student in a vulnerable position and creates a problematic working or learning environment for other students who become aware of the relationship. In general, professionalism is threatened by any relationship where one party has professional responsibility for the other: such relationships place, or seem to place, the person with the power or status advantage in a position to favor or advance the other party's interests at the expense of others and implicitly make, or seem to make, obtaining benefits contingent on amorous or sexual favors.

Professionalism within the College demands that those with authority not abuse, nor seem to abuse, the power with which they are entrusted. This policy thus prohibits any Faculty or Staff member from pursuing romantic and/or sexual relationships with students they supervise, teach, advise or evaluate.

This Policy strongly discourages any Faculty or Staff member in a managerial or supervisory role from pursuing a romantic or sexual relationship with a subordinate whose work that individual supervises or where there is a significant power or status differential. The Policy requires reporting these relationships, when they occur, to the appropriate division Vice President who will then arrange for other forms of objective decision-making, evaluations or monitoring, where necessary. The person with the power or status advantage in the relationship almost always bears the responsibility for reducing the potential for coercion and favoritism. In

the context of a complaint, there will be no presumption that the relationship was welcome to the Staff member.

## **V. Definitions of Affirmative Consent, Confidentiality, Privacy and Amnesty**

### **A. 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 to any sexual act or prior consensual sexual activity between or with any party does not necessarily constitute consent to any other sexual act. Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol. Consent may be initially given but withdrawn at any time.

Consent cannot be given when 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.

Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.

In considering whether an individual is incapacitated due to drug or alcohol use, the College will look at a number of factors, including but not limited to the type/amount of alcohol and/or drugs used, as well as such outward signs as slurred or incoherent speech, impaired motor skills (e.g. walking, texting), vomiting, loss of consciousness, etc.

Incapacitation may also result from a physical or mental disability. In addition, in New York, a minor (someone under the age of 17) cannot consent to sexual activity. This means that sexual contact with a person less than 17 is a crime as well as a violation of this Policy even if the minor wanted to engage in the sexual activity. If any person has any information that a minor has been subjected to sexual activity, it should be reported to Campus Security and/or the Policy immediately.

### **B. Confidentiality**

Confidentiality may be offered by an individual who is not required by law or policy to report known incidents of sexual assault or other crimes to institutional officials in a manner consistent with state or federal law. Licensed mental health counselors, medical providers and pastoral counselors are examples of institutional employees who may offer confidentiality.

## C. Privacy

Privacy may be offered by an individual when such individual is unable to offer confidentiality under the law but shall still disclose information learned from a reporting individual or bystander to a crime or incident no more than necessary to comply with this Policy and applicable laws, including informing appropriate College officials.

The Title IX Coordinator/Deputies, Investigating Team, Review Panel/Officers, Appeal Panels and anyone else with a role under this Policy are required to maintain privacy as to the deliberations, and votes taken.

## VI. Reporting Options

Le Moyne College strongly encourages Faculty, Staff and/or witnesses of Sexual Misconduct to report these incidents. Retaliation and threats of retaliation or other attempts by anyone to prevent the reporting of Sexual Misconduct outlined in this Policy are also considered violations of this Policy. Le Moyne College will take steps to prevent or address retaliation by anyone within its jurisdiction against any person making a report of Sexual Misconduct or cooperating with any investigation or adjudication of such a report.

Faculty and Staff have options with respect to securing a College response to a Sexual Misconduct incident. These options include a report to College administration to understand and/or pursue on campus procedures, a police report to understand and/or pursue a criminal investigation (including/the New York State Police), or a confidential report to a clergy member. These options are not mutually exclusive, and a student may take advantage of all of these options. The Title IX Coordinator may review all of the reporting options with the reporting party.

An individual also has the right to not report to any or all of the foregoing.

**If you are in immediate danger need to get to a safe place and can contact Campus Security at 315-445-4444 or dial 911.**

### A. Report for a Response by the College

A report to the College should be made whenever an individual wishes for the College to take some action in response to the situation. Incidents of Sexual Misconduct can be reported to the following **Responsible Administrators** for action:

- Campus Security at 315-445-4444 — **Available 24/7**
- Title IX Coordinator: Deborah Cady Melzer, Vice President for Student Development, 315-445-4278.
- Deputy Title IX Coordinators:
  - Ann Bersani, Associate Director of Campus Life and Leadership, 315-445-4520
  - Timothy Barrett, Human Resources, 315-445-5447
  - C. Tabor Fisher, Philosophy Faculty Member, 315-445-4256
  - Scott Peterson, Athletics, 315-445-4217

While the College treats all Faculty and full time Staff and Administrators employees (who are not classified as Confidential under V B of this Policy)?] as responsible employees with an obligation to advise the Title IX Coordinator of violations of this Policy which they observe or otherwise learn about, a person who has been subjected to Sexual Misconduct is strongly urged to contact one of the specific Responsible Administrators listed above. If a report is made to anyone else, the reporting party risks a delay in that report getting to individuals authorized to act upon it and even the possibility that it will not come to the attention of the proper College officials and may, therefore, not be acted upon at all. Once a report is made, the Responsible Administrator to whom the report is made will inform the Title IX Coordinator or his/her deputy.

The reporting party will be advised by the Title IX Coordinator of his/her rights and the options moving forward. This will include an explanation of investigatory/disciplinary avenues, as well as other responsive (including interim) measures, such as changes in work arrangements to minimize the reporting person's contact with the respondent.

Sometimes, a reporting party files an incident report but does not want an investigation or disciplinary action to be taken by the College. The College endeavors to respect and follow the wishes of an individual who brings forward a Sexual Misconduct concern. However, it may or may not be possible for the College to honor a request to not investigate or initiate disciplinary action.

If an individual makes a report but does not wish for there to be an investigation or any disciplinary action, the Title IX Coordinator will confer with appropriate administrators and decide whether the request can be honored. The College's decision will depend on the seriousness of the offense, whether the incident reflects an escalation in unlawful conduct on the part of the respondent, whether the offense is alleged to have included a single or multiple respondents, whether there is reason to believe that the accused has engaged in the reported conduct or similar conduct previously or otherwise has a history of violent behavior or is a repeat offender, whether the circumstances suggest an ongoing or future risk to the campus community or the reporting party (such as threats of future violence); whether the incident involved the use of force or weapons; whether the reporting party was a minor; whether the College possesses other means to obtain relevant evidence; and similar considerations. A decision will be made and shared with the person who brought forward the concern.

Similarly, a reporting party may desire to have investigatory and/or disciplinary action taken, but may wish to have his/her identity as the reporting party kept confidential. Depending on the circumstances, this may or may not be possible. If any number of people could have reported the incident, it may be possible for the reporting person's identity to remain confidential and not be shared with the respondent. However, in other cases, it may not be possible to proceed with investigatory or disciplinary action without revealing the identity of the reporting party. If a reporting party requests that his/her name be kept confidential (or if the reporting party makes an anonymous complaint), the College's ability to respond to the report may be limited. The Title IX Coordinator will discuss the situation and the reporting person's request for confidentiality, and a decision will be made and shared with the reporting person.

Ultimately, the College retains the right (and in some cases may have the obligation) to act upon any information that comes to its attention. ***Therefore, if a person believes that he or she has***

*been subjected to Sexual Misconduct and wants support but does not want the College to take further action (or is not yet certain whether he or she desires such action), he or she should utilize one of the on campus or off campus Confidential Resources described in this Policy, or law enforcement.*

Nonetheless, when the College and its employees cannot guarantee confidentiality, they will maintain an individual's privacy to the greatest extent possible. The information provided to a non-confidential resource will be relayed only as necessary for the Title IX coordinator to investigate and/or seek a resolution, and to otherwise comply with this Policy.

**A Faculty or Staff member may file an official incident report regarding an act of Sexual Misconduct 24 hours a day, 7 days a week with Campus Security located in the basement of Nelligan Hall, at 315-445-4444.** The report will include the reporting party's name, as well as the responding student if known. A preliminary investigation will be conducted by Campus Security. The Campus Security report will be forwarded to the Title IX Coordinator, who will follow the procedures outlined in this Policy.

Reports may also be made anonymously by contacting the Title IX Coordinator or the Campus Sexual Assault Hotline (315-251-SAFE). The College's ability to respond, however, may be limited by such anonymity.

Upon receiving a report, the Responsible Administrator to whom the report was made will discuss with the reporting party available avenues and options. Options may include disciplinary action against the respondent and remedial actions to ameliorate or correct the effects of the sexual misconduct. Other options may include interim no contact orders, changes in working arrangements and other support, as appropriate. Reporting to local law enforcement also is an option. The College will review the facts and circumstances of each case, as well the reporting party's wishes, in deciding whether and what steps are reasonable and appropriate.

## **B. Confidential Reports**

Le Moyne understands that an individual who has experienced Sexual Misconduct may wish to talk about the incident with the understanding that the discussion will not be reported under this Policy. The support resources that employees may utilize on a confidential basis on campus include our campus clergy (when acting in their role as clergy). In addition, off campus services, listed below, are also available. Faculty and Staff are encouraged to consult these resources for confidential emotional support. ***A discussion with these resources does not result in a report being filed with the College or result in action being taken by the College to respond to the incident.*** A Faculty or Staff Member wishing to have an incident investigated or adjudicated should report in accordance with the procedures described in this Policy.

Campus Ministry (ask for clergy)	315-445-4110
Vera House	315-468-3260
Employee Assistance Program (EAP) (Confidential)	315-474-4036
St. Joseph's Hospital Emergency Room	315-448-5101
University Hospital Emergency Room (Confidential)	315-464-5611
Crouse Irving Hospital Emergency Room (Confidential)	315-470-7411
National Domestic Violence Hotline	1-800-799-7233

### **C. Reports to Law Enforcement**

A person who has been the victim of Sexual Misconduct is encouraged to contact local law enforcement directly by dialing 911, the New York State Police Sexual Assault Hotline (844-845-7269). If requested, Campus Security (315-445-4444) will assist such a person in making a report to local law enforcement. Campus Security staff are Responsible Administrators, therefore if the report does come to the attention of Campus Security, even if only through a request to assist with contacting local law enforcement, it will be shared with the Title IX Coordinator and/or Deputy. Filing an official police report is different than filing a report with the College. When a person files a Sexual Misconduct report with local law enforcement a criminal investigation may be initiated and that investigation is often transferred to either the Syracuse Police Department or Onondaga County Sheriff's Office Abused Persons Unit for further investigation. Based on the criminal investigation, a determination will be made as to whether the case will be prosecuted. The criminal justice process utilizes different standards of proof and evidence. (Any questions about whether a specific incident violated the penal law should be directed to law enforcement or the Onondaga County District Attorney (911 or 315-435-2470). The preservation of evidence is critical to the prosecution of a criminal case. If you have been the victim of a Sexual Misconduct, vital evidence may be lost if you change your clothes, shower, brush your hair, or allow time to pass before your physical state is documented by the police or a doctor. Any person who has experienced sexual assault or an act of violence is encouraged to contact the law enforcement immediately for further instructions as to the preservation of evidence.

- City of Syracuse Police Department                      Dial: 911 or 315-442-5111
- Syracuse Police Abuse Person Unit                      Dial: 911 or 315-435-3016
- Town of DeWitt Police Department                      Dial: 911 or 315-425-2333
- Onondaga County Sheriff's Office                      Dial: 911 or 315-425- 2111
- Onondaga Sheriff Abused Person Unit                      315-435-3092
- NYS Police Sexual Assault Hotline                      844-845-7269

A criminal investigation into allegations of Sexual Misconduct does not end the College's duty to investigate and resolve reports promptly and equitably. In certain cases, Le Moyne College may wait to proceed with its own fact finding investigation and procedures under this Policy until the police have completed their initial evidence gathering phase of their investigation. Le Moyne College will not defer its investigation and disciplinary processes thereafter (e.g., pending the completion of any civil or criminal case).

## **VII. Rights**

### **A. Statement of Rights in Cases Involving Sexual Assault, Domestic/Dating Violence and Stalking**

### **B. Support Services for both the Reporting and Responding Party**

- Title IX Coordinator:
- Campus Ministry: 315-445-4110 (Clergy are Confidential)
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- Off-campus resources
  - Vera House (Confidential) Dial: 315-468-3260
  - Employee Assistance Program (EAP) (Confidential)  
(Contact: Michele Vinciguerra, CSW-R) Dial: 315-474-4036
  - City of Syracuse Police Department Dial: 911 or 315-442-5111
  - Town of DeWitt Police Department Dial: 911 or 315-425-2333
  - Onondaga County Sheriff's Office Dial: 911 or 315-425- 2111
  - St. Joseph's Hospital Emergency Room (Confidential) 315-448-5101
  - University Hospital Emergency Room (Confidential) 315-464-5611
  - Crouse Irving Hospital Emergency Room (Confidential) 315-470-7411
  - NYS Police Hotline 884-845-7269
  - NYS Domestic Violence Hotline 1 800-942-6906

## **VIII. Administrators of the Policy**

The administrators of this Policy are described below.

### **A. Title IX Coordinator/Deputies**

The oversight responsibility for the Policy and procedures primarily rests the Title IX Coordinator and Deputies. These officers are appointed by the President, and in the role of Title IX Coordinator/ Deputy, report directly to the President. The Title IX Coordinator and Deputies will come from the ranks of the faculty and staff. Whenever possible, the President will appoint a gender-balanced team. These individuals will coordinate educational programs for the College community, train personnel, and administer the procedures described in the Policy. Normally, the Title IX Coordinator/Deputies do not have a direct role in decision making process. Instead, their role is to protect the integrity and fairness of the procedures.

### **B. Investigating Team**

In cases where a report for a response by the College has been filed with a Responsible Administrator, an Investigating Team will be appointed by the Title IX Coordinator. This Team will normally consist of one or more trained investigators. In addition, a Title IX Deputy will be responsible for monitoring compliance with the Policy during the course of the investigation and providing guidance to the Investigating Team under the Policy. Members of the Investigating Team are specifically designated and undergo appropriate training to assist in the processing of formal complaints alleging Sexual Misconduct. The role of the Investigating Team is to:

participate in the collection of facts and evidence related to the report including information from the reporting party, the responding party and other witnesses; and to refer their report to the Review Panel, or others as provided for in this Policy.

### **C. Review Panel (Faculty Respondent)**

In cases in which a Faculty member is accused by another employee of violating this Policy, the Investigating Team's report will be forwarded to a Review Panel chaired by the appropriate Dean, as designated by the Provost. The Review Panel will consist of 3 employees of which at least two out of the three panelists are faculty members. The Review Panel shall have the responsibilities of making the decision as to whether a responding individual has committed a violation of College policies and determining appropriate sanctions and remedies based on the preponderance of evidence (i.e., whether the charged conduct is "more likely than not" to have occurred) after a review of the Investigating Team's report. Evidence does not have to be in the form of physical evidence nor does the violation have to be witnessed. Circumstantial information can be sufficient in some instances for the College to determine that a violation was "more likely than not" to have occurred. The Dean's role is administrative and is not a decision-maker in this process.

### **D. Review Officers (Staff Respondents)**

In cases in which a Staff respondent is accused by another employee of violating this Policy, the Investigating Team's report will be forwarded to a Review Panel chaired by the applicable Vice President as appointed by the Title IX Coordinator. The Review Panel will consist of 3 employees made of either faculty members and/or staff. The Review Panel shall have the responsibilities of making the decision as to whether a responding individual has committed a violation of College policies and determining appropriate sanctions and remedies based on the preponderance of evidence (i.e., whether the charged conduct is "more likely than not" to have occurred) after a review of the Investigating Team's report. Evidence does not have to be in the form of physical evidence nor does the violation have to be witnessed. Circumstantial information can be sufficient in some instances for the College to determine that a violation was "more likely than not" to have occurred. The Vice President's role is administrative and is not a decision-maker in this process.

### **E. Appeals Panel (Faculty Respondents)**

An appeals panel comprised of the Provost and a Dean not involved in the original decision, as appointed by the Title IX Coordinator, will act on any appeal request, a third member will be appointed if the two original appointees cannot agree.

### **F. Appeals Panel (Staff Respondents)**

An appeals panel of two Vice Presidents not involved in the original decision of the staff respondent as appointed by the Title IX Coordinator will act on any appeal request, a third member will be appointed if the two original appointees cannot agree.

## **G. Legal Counsel**

An attorney who is responsible to the Board of Trustees shall be made available by the College to advise the Title IX Coordinator/Deputies, Investigating Team, Review Panel and/or Appeals Panel, at any time, to be coordinated through Title IX Coordinator.

## **IX. Interim Measures/Suspensions**

In appropriate cases, even in interim relief may be available for either party to a report while an investigation and/or review is pending. Relief may include no contact orders; changes in working arrangements; safe walks and escorts; and other relief as appropriate. This relief can be secured through the Title IX Coordinator.

Upon request, an individual may also seek a prompt review of the need for and terms of any other interim measure and accommodation that directly affects him or her, by submitting a written request for review to the Title IX Coordinator, providing the basis for that request and any evidence in support.

When an employee accused of Sexual Misconduct is determined to present a continuing threat to the health and safety of the campus community, he or she may be subject to interim suspension pending the outcome of any proceedings under this Policy.

## **X. Orders of Protection**

Campus Safety, or other College officials, will provide reasonable assistance to a College campus community member, in connection with prohibited Sexual Misconduct conduct under this Policy in obtaining an order of protection or, if outside of New York State, an equivalent protective or restraining order. This assistance includes providing that person with:

- i. a copy of an order of protection or equivalent when received by the College and providing that person with an opportunity to meet or speak with a College representative, or other appropriate individual, who can explain the order and answer questions about it, including information from the order about the other person's responsibility to stay away from the protected person or persons;
- ii. an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension; and
- iii. assistance from Campus Safety in contacting local law enforcement to affect an arrest for violating such an order.

## **XI. Investigation**

Upon receipt of a report and a desire by the reporting party to move forward, or a determination by the Title IX Coordinator to move forward in the absence of a participating reporting party, the

College will conduct an investigation.<sup>1</sup> The Title IX Coordinator reserves the right, in exceptional cases, to utilize external investigators, alone or in conjunction with internal investigators. Investigation of reports will be completed as expeditiously as possible, ordinarily within 30 days.<sup>2</sup> Investigation may take longer when (among other things) the initial report fails to provide direct firsthand information or when the College is not in session. An investigation usually involves interviews of witnesses and reviewing relevant documentation. During the investigation, the reporting party and the responding party will have an equal opportunity to share information and request that witnesses be interviewed. The reporting party and the responding party will not be interviewed together or be required to meet together. The investigators retain discretion to otherwise determine how to conduct the investigation and what information is necessary and relevant.

#### **A. Advisor**

During an investigation of any report filed, the reporting party and the responding party may bring to any related meeting/interview an advisor drawn from non-lawyer, active members of the College community, except that in cases involving sexual assault, domestic or dating violence or stalking, it can be an advisor of choice. Any expense incurred in using an advisor is borne by the individual. Each party must inform the Title IX Coordinator of their interest in having an advisor accompany them at least 24 hours prior to attending any meeting. An individual may be precluded from serving as an advisor if the Title IX Coordinator determines that a conflict of interest exists.

Individuals are expected to speak for themselves during meetings/interviews; accordingly, except as otherwise required by law, advisors may furnish advice to the individual only and may not make statements or arguments, question witnesses or other individuals involved, or otherwise actively represent an individual during the meeting/interview. Without limiting the foregoing, an advisor may not speak during any meetings-/interviews related to the report, object to any aspect of the meeting/interview, or disrupt a meeting-/interview in any way. Any consultation with the advisee while a meeting-/interview is in progress must be done in writing only and in a way that is not disruptive.

The advisor may consult with the advisee outside the meetings-/interviews during breaks, if any. If an advisor is not adhering to these or other ground rules of any meeting/interview, the advisor may be expelled from the meeting/interview, and the meeting-/interview will continue without opportunity for the party to secure a new advisor.

#### **B. Investigation Process**

Investigatory meetings/interviews will be conducted by the Investigation Team, who will determine the order and method of proceeding. The Investigation Team will review the charges during the meeting/interview; will determine all questions of procedure or interpretation arising

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<sup>1</sup> In unusual cases, it may be apparent that an investigation should not proceed. This may be the case if the report is not of a nature covered by this Policy; where another Policy or procedure is more appropriate; or where there is indisputable proof that the allegations are not true. If a determination is made by [the Title IX Coordinator] not to proceed, the reporting party will be so informed.

<sup>2</sup> All deadlines and time requirements in this Policy may be extended for good cause as determined by the Title IX Coordinator. Both the reporting and responding parties will be notified in writing of the reason for the delay and the date of the new deadline or event.

during or with respect to the meetings/interviews and may exclude from a meeting/interview any person who engages in conduct in violation of these procedures. Meetings/interviews may be recorded by the Investigating Team (only), at its discretion, and with notice to the person being recorded.

The investigation process will generally be closed to anyone other than the interviewee, and if the responding party and/or reporting party, their advisor, but the Investigation Team may permit others to attend if it is deemed that the individual may be helpful to its review and determination of the charges, or that there are other compelling reasons for their presence.

### **C. Witnesses**

The reporting and responding parties may each request that witnesses be included in the investigation process. Such requests must be submitted to the Investigation Team in writing including the purpose for including the witnesses.

The Investigation Team may decide not to include a requested witness if the Investigation Team determines that the expected testimony is not sufficiently relevant to the charges or is cumulative. The Investigation Team may also interview additional witnesses on its own initiative.

### **D. Investigating Team's Report**

At the conclusion of the investigation, the Investigating Team will provide their report, including any credibility determinations, to the Title IX Coordinator for distribution to the appropriate person. The reporting and responding parties shall be notified of the conclusion of the investigation and shall, upon request to the Title IX Coordinator received within 48 hours of that notice, be given the opportunity to review on campus the investigating team's report and relevant information in the case file. A requesting party shall be given a 7 day period during which access to this material may be available for a scheduled review. (Access is limited to the requesting party, who may not photocopy or photograph the materials.) Each party shall also be allowed to provide during this same 7 day period an additional written statement (including a personal impact statement) to the Title IX Coordinator for consideration. (The College reserves the right to redact material from the file as permitted and/or required by law.) Any written statement provided by a party may be reviewed by the other party, who will have 24 hours to submit a response.

### **E. Review**

#### **a. Faculty Respondents**

In cases in which the respondent is a Faculty member, after the Investigating Team has completed meeting with both parties and all relevant witnesses, the team will produce a report of fact discovery and forward to the appropriate Dean as designated by the Provost, who will forward the report to the Review Panel for review and decision. The Dean will chair the Review Panel but is not a decision-maker in this process.

The Review Panel may review any written documentation from the investigation and/or any

recordings made during the investigation meetings. The Review Panel may, but is not obligated to, provide the reporting and the responding party an opportunity to appear before him/her but any such opportunity must be provided equally (if at all) to both parties. If the Review Panel desires, they may also ask questions (in writing or in person) of the reporting/responding parties, the witnesses and/or the Investigating Team. The Review Panel may also request additional information or ask the Investigating Team to ask any party or witness additional questions.

The Review Panel may consider the record of any previous disciplinary action or other violation of College Policy in determining appropriate action.

In cases where the Review Panel imposes discipline, he/she will inform the reporting and responding party, simultaneously and in writing, of the decision, including findings of fact and rationale therefore, and sanction, if appropriate, to the extent permitted by law. The decision of the Review Panel is effective immediately. The notice will include a reference to the available appellate procedure and the potential outcomes of that procedure. The Review Panel's determination is typically provided within 7 days after he/she receives the investigating team's report.

#### **b. Staff Respondent**

In cases in which a Staff member is a respondent, the Review Panel will conduct a review similar to that provided for above (in cases involving Faculty respondents) and the Review Panel will make a determination as to responsibility and sanctions, if appropriate. The Review Panel will be chaired by the applicable Vice President as appointed by the Title IX Coordinator and will not be involved in the decision making process.

### **XII. Sanctions and Corrective Action**

The College is committed to rectifying the consequences of Sexual Misconduct. It is the responsibility of the decision makers identified above to determine the appropriate sanction of the individual that has been found in violation of this Policy, as well as any other corrective action that may be appropriate.

When the accused is a Faculty member or Staff member, the seriousness of the Sexual Misconduct incident and the accused's prior record (if any) will be evaluated. The College reserves the right to impose any level of discipline, up to and including termination, for any act of Sexual Misconduct, based on the facts and circumstances of the particular case. Where applicable, discipline will be issued in accordance with any collective bargaining agreements.

### **XIII. Appeal Procedures**

#### **a. Faculty Respondents**

When the accused is a Faculty member, the Title IX Coordinator will be responsible for appointing an Appeals Panels consisting of a Dean who was not involved in the original decision, who together with the Provost will constitute the Appeals Panel. In those cases, the following procedures will apply.

Appeals must be submitted in writing to the Title IX Coordinator within five business days of the date of the Dean's findings letter. The Appeal Statement should include all information the party wishes to have considered. An appeal must be based on one or more of the following grounds:

- a procedural error occurred during the process that had a direct impact on the outcome,
- new information has come to light that has a direct impact on the outcome and which could not have been discovered by a properly diligent person before or during the Investigation, and/or
- the sanction is inappropriate (too severe or too light).

The following is a general description of the Appeals process. The process may vary as appropriate for specific cases.

A party's appeal statement is subject to review by the other party, who will then have 24 hours to submit a response.

The Appeals Panel shall review the appeal, any written documentation from the investigation and/or review panel notes or any recordings made during the investigation or review panel proceedings. The Appeals Panel may, but is not obligated to, provide the reporting and the responding parties an opportunity to appear before the Appeals Panel, but any such opportunity must be provided equally (if at all) to both parties. If the Appeals Panel desires, they may also ask questions of the reporting/responding student, ask questions of the Review Officer and/or request additional information. Following review, the Appeals Panel may take any action it deems warranted, including without limitation:

- uphold the finding of responsibility and the sanctions (if any) as originally imposed;
- uphold the finding of responsibility but change the sanction;
- overturn the finding of responsibility (and impose sanctions as applicable); or
- ask the original Review Officer or a new Review Officer to review the case in whole or in part

It is expected that the Appeals Panel will meet to review and make a decision on the appeal within 7 working days of the receipt of the appeal. The Appeals Panel will inform the reporting and responding parties, simultaneously and in writing, of the decision and the rationale therefore, to the extent permitted by law. This notice is typically provided within 7 days after the Appeals Panel reaches its determination.

The Appeals Panel is not subject to review or further appeal (though the reporting student and/or the responding student retain the right to appeal (as provided above) any re-hearing ordered by the Appeals Panel).

The Appeals Panel proceedings are not open to the public, other members of the College community, parents, family members, or friends. The Appeal's Panel shall have final authority regarding individual access to its proceedings. If the reporting or responding parties are asked to appear before the Appeals Panel, they may each bring an advisor of their choice (as provided earlier in this Policy and at the party's own expense, if the advisor is a paid advisor). Each party must inform the Title IX Coordinator of the identity of his or her advisor at least 24 hours before

the hearing. Faculty are expected to speak for themselves during Appeals Panel proceedings; accordingly, advisors may furnish advice only and may not make statements or arguments, question individuals involved in the proceedings, or otherwise actively represent a Faculty member during the proceedings. The advisor may not speak during the proceedings, object to any aspect of the proceedings, or disrupt the proceedings in any way, and any consultation with the advisee while the proceedings are in progress must be done in writing only. The advisor may consult with the advisee verbally outside the proceedings during breaks, if any. If the Appeals Panel determines that an advisor is not adhering to these or other ground rules of the proceedings, the advisor will be expelled from the proceedings, and the proceedings will continue without opportunity for the party to secure a new advisor.

The Appeals Panel is required to maintain privacy as to student conduct records, the deliberations, and votes taken.

#### **b. Staff Respondents**

When the accused is a Staff member, an Appeals Panel of at two Vice Presidents not involved in the original review will be appointed by the Title IX Coordinator in the event either party appeals (if those two members cannot agree on an outcome, a third member will be appointed). In such cases, appeals will otherwise be handled on the same basis as provided above (for Faculty respondents).

#### **XIV. Institution Initiated Proceedings**

Normally, individuals are responsible for filing reports on behalf of themselves. However, in cases where appropriate, the College may need/choose to bring formal charges itself. The decision to undertake institution-initiated proceedings lies with the Title IX Coordinator.

#### **XV. Rights of Parties During Investigation, Review and Appeal**

##### **A. Rights of the Reporting Party.**

The reporting party under these procedures has:

- (1) the right to provide a personal statement before any sanction is imposed;
- (2) the right to make his/her statement without directly confronting the party charged;
- (3) the right to be notified in advance in writing (including electronically) of any meeting they are required or eligible to attend and the reason for that meeting;
- (4) the right not to have his or her past sexual history with the other party considered, unless determined to be directly relevant to the matter at hand, and the right to not have their prior sexual history with other persons considered as part of a responsibility determination;
- (5) the right to ask that witnesses relevant to the case be interviewed as part of the investigation and to submit other evidence for consideration; however, the investigator(s) may

establish a reasonable limit on the number of witnesses and to also place reasonable restrictions on the consideration of any proffered information;

(6) the right to appeal a decision to the extent provided for in this Policy;

(7) the right to raise any issues of conflict of interest related to individuals serving in official roles under this Policy;

(8) the right to decline to answer a question during the investigatory and/or review process. However, the investigation and review proceeds based on the information provided;

(9) the right to have their own mental health diagnoses and/or treatment excluded during any responsibility determination.

## **B. Rights of the Respondent.**

The respondent under these procedures has:

(1) the right to be informed of the factual allegations concerning any alleged violation, the date, time and place of the alleged violation; a reference to the Policy provisions violated and possible sanctions;

(2) in the course of the investigatory and adjudicatory process, the right to be presumed not responsible for a violation until a finding of responsibility has been made;

(3) the right to provide a personal statement before any sanction is imposed;

(4) the right to be notified in advance in writing (including electronically) of any meeting they are required or eligible to attend and the purpose of the meeting;

(5) the right to make his/her statement without directly confronting the complaining party

(6) the right not to have his or her past sexual history with the other party considered, unless determined to be directly relevant to the matter at hand, and the right to not have their prior sexual history with other persons considered as part of a responsibility determination (prior findings and sexual assault, domestic violence, dating violence and stalking may be considered in determining a sanction, as may other aspects of the respondent's overall record);

(7) the right to ask that witnesses relevant to the case be interviewed as part of the investigation and to submit other evidence for consideration. However, the investigator(s) may establish a reasonable limit on the number of witnesses and to also place reasonable restrictions on the consideration of any proffered information;

(8) the right to appeal a decision to the extent provided for in this Policy;

(9) the right to raise any issues of conflict of interest related to individuals serving in official roles under this Policy;

(10) the right to decline to answer a question during the investigatory and/or review process. However, the investigation and review proceeds based on the information provided;

(11) the right to have their own mental health diagnoses and/or treatment excluded during any responsibility determination.

## **XVI. Retaliation**

Retaliation against persons who initiate reports or support action against Sexual Misconduct is strictly forbidden. Retaliation includes any adverse action which would reasonably tend to dissuade such individuals from coming forward, including but not limited to any form of intimidation, reprisal, or harassment.

Allegations of retaliation shall be promptly investigated. A thorough investigation using the procedures stated in this Policy will be conducted, preferably by the individuals already familiar with the case. Any individual over whom the College has jurisdiction and who retaliates against any person who reports, or is thought to have reported, alleged Sexual Misconduct, or who retaliates against any person who testifies, assists, or participates in an investigation relating to a Sexual Misconduct charge will be subject to disciplinary or such other action as the College deems appropriate. Retaliation shall be considered a serious violation of this Policy and shall be independent of whether the alleged Sexual Misconduct is substantiated. Encouraging others to retaliate is also a violation of this Policy. Evidence of retaliation will be admissible in an ongoing investigation relating to sexual misconduct charge.

The reporting and responding parties in a Sexual Misconduct case are strongly encouraged not to discuss the report with other people except as required by the need for advice and support, and to the extent necessary for the reporting party, the responding party or their advisors to pursue or defend reports. Discretion on the part of all concerned should be exercised. Public discussion of Sexual Misconduct reports beyond what is necessary and appropriate can be a form of retaliation.

## **XVII. Training**

Responsible Administrators, persons assigned as investigators and individuals determining violations of this Policy will receive annual training on relevant topics, including discrimination, harassment, sexual assault, stalking, domestic violence and dating violence and how to conduct investigations (including specifically investigations involving sexual assault, domestic and dating violence and stalking), the right during investigatory and adjudicatory proceedings to a presumption of “not responsible” until a finding of responsibility is made, the College’s disciplinary proceedings, protecting the safety of the community, and respectful treatment of all parties.

## **XVIII. Academic Freedom**

Le Moyne College supports and protects the principle of academic freedom. All members of the Le Moyne community have a right to use the academic forum provided by the College to discuss controversial subjects and express unpopular or unfamiliar ideas. However, under the shield of academic freedom, members of the community do not have the right to sexually harass others or

engage in other acts of Sexual Misconduct. Nor may any member of the community implicitly or explicitly use the threat of filing a Sexual Misconduct report as a mechanism for the advancement of certain ideas and the silencing of others.

### **XIX. Recordkeeping**

The record-keeping procedures outlined here are designed to protect the privacy of individuals to the maximum degree consistent with protection of the Le Moyne College community against future Sexual Misconduct. Records of information inquiries, reports and responses filed, notes and materials, and dispositions of cases will be maintained in a locked file by the Title IX Coordinator.

When a report is received, the Title IX Coordinator will check the file to determine whether a report has previously been recorded against the same individual, but not acted upon. If so, the officers may attempt to contact the earlier reporting party(ies) and any witnesses named in order to suggest the possibility of joint action or participation as a witness, while still maintaining appropriate levels of privacy. Such persons have the right to decline to participate, although the College may decide to move forward on its own. The Title IX Coordinator shall also use this file to determine whether previous findings have been reached involving the person complained against and may use that information as appropriate.

### **XX. Clery Act Compliance**

The College is required to include for statistical reporting purposes the occurrence of certain incidents in its Annual Security Report (ASR). Names of individuals involved in incidents are not reported or disclosed in ASRs. In the case of an emergency or ongoing dangerous situation, the College will issue a timely warning to the campus. In such circumstances, the name of the responding party may be disclosed to the community, but the name of the reporting party will not be disclosed.

### **XXI. Coordination with Other Policies**

A particular situation may potentially invoke one or more College policies or processes. The College reserves the right to determine the most applicable Policy or process and to utilize that Policy or process. Without limiting the foregoing, the Review Panel has the authority to review allegations of collateral misconduct, meaning that it hears all allegations of Sexual Misconduct, but also may hear any allegations of additional conduct or Policy violations that are alleged to have occurred as part of the same set of circumstances as the alleged Sexual Misconduct, even though those collateral allegations may not otherwise fall under this Policy.

In cases where there are multiple reports and/or multiple respondents, the College reserves the right to handle the cases individually or jointly. Further, in cases where there are allegations of a violation of this Policy and collateral allegations of other Policy violations (e.g., an allegation of a non-consensual sexual contact and minor property damage), the College reserves the right to have allegation(s) of violations of this Policy and the collateral allegation(s) investigated and adjudicated pursuant to this Policy. In cases where the individual has more than one status with the College (such as a student who is also employed with the College, or any employee who

takes courses at the College), the College will determine in its discretion which status is primary; in such a situation, sanctions imposed may include both sanctions related to each status.

This Policy does not apply to decisions relating to requests for reasonable accommodation due to a disability. Academic disability accommodations are handled by the Disability Accommodation office and pursuant to that office's policies.

#### **XXII. Delegation of Authority/Interpretation**

The Title IX Coordinator may delegate any of his/her responsibilities and/or authorities under this Policy to a Deputy Title IX Coordinator, as appropriate.

The Title IX Coordinator may also delegate the authority of any other person with a role under this Policy to another appropriate (including appropriately trained) College official, including in order to avoid conflicts of interest or where time constraints or other obligations prevent a College official named in this Policy from fulfilling his/her designated role.

Final interpretation of any provision of these policies is vested in the Title IX Coordinator. Issues that are not specifically addressed in these policies may be resolved by the Title IX Coordinator.

#### **XXIII. Time Limits**

The Title IX Coordinator may extend any time limits provided for in this Policy for good reason.

#### **XXIV. Policy Compliance**

Any person with a concern about the College's handling of a particular matter should contact the Title IX Coordinator.

The U.S. Department of Education, Office for Civil Rights is a federal agency responsible for ensuring compliance with Title IX. OCR may be contacted at 400 Maryland Avenue, SW, Washington, DC 20202-1100, (800) 421-3481.

#### **XXV. Modification**

This Policy may be amended by the President in consultation with the Board of Trustees.

## APPENDIX A

### RIGHTS IN CASES INVOLVING SEXUAL ASSAULT, DOMESTIC/DATING VIOLENCE AND STALKING

Anyone reporting an incident of sexual assault, domestic or dating violence or stalking has the right to:

A. emergency access to a Title IX Coordinator or other appropriate official trained in interviewing victims of sexual assault who shall be available upon the first instance of disclosure by a reporting individual and who can provide information, including:

- (i) options to proceed, including the right to make a report to Campus Safety (reports to Campus Safety are reported to the Title IX Coordinator), Local Law Enforcement, and/or the New York State Police or choose not to report; to report the incident to the College; to be protected by the College from retaliation for reporting an incident; and to receive assistance and resources from the College, as set out in the Le Moyne College Faculty and Staff Policy on Sexual Harassment and Sexual Misconduct Policy.
- (ii) where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible;
- (iii) that the criminal justice process utilizes different standards of proof and evidence than the College's misconduct procedures and that any questions about whether a specific incident violated the penal law should be addressed to law enforcement or to the district attorney;
- (iv) whether the person they are reporting to is authorized to offer confidentiality or privacy; and
- (v) Any other reporting options.

B. If they are a member of the College community, to contact non-College confidential resources, including:

- (i) Vera House
- (ii) St. Joseph's Hospital Emergency Room      315-488-5101
- (iii) University Hospital Emergency Room      315-464-5611
- (iv) Crouse Hospital Emergency Room      315-470-7411

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

D. Disclose the incident to the College's Responsible Administrators who can offer privacy or, appropriate cases determined by the Title IX Coordinator, confidentiality, subject the College's Sexual Harassment and Sexual Misconduct Policy Faculty and Staff Policy on, and can assist in obtaining resources for reporting individuals;

E. File a report of sexual assault, domestic violence, dating violence, and/or stalking and consult the Title IX Coordinator and other appropriate College personnel for information and assistance. Reports shall be investigated in accordance with College Policy. A reporting individual's identity shall remain private if that is what the reporting individual wishes, however privacy is not the same as confidentiality; private information can be shared to implement and fulfill the College's obligations under the law and its Sexual Harassment and Sexual Misconduct Policy and related Procedures;

F. Disclose, if the accused is a College employee of the institution, the incident to Human Resources or to request that a private employee assist in reporting to Human Resources; and

G. Receive assistance from appropriate College representatives if interested in initiating legal proceedings in family court or civil court, such assistance to consist of facilitation in contacting appropriate local agencies (e.g., Vera House), who can provide direct assistance with court proceedings.

H. Withdraw a complaint or involvement from the College processes at any time, with the understanding that in appropriate cases, the College may nonetheless be required to proceed even if the reporting individual does not wish to do so.

Information about available resources, including intervention, mental health counseling and medical services that might be available to anyone reporting an incident can be found in the College's Faculty and Staff Policy on Sexual Harassment and Sexual Misconduct. In addition, information on sexually transmitted infections and sexual assault forensic examinations can be obtained from the Hospital's list above, if an employee. Certain resources are also available to victims of crimes through the New York State Office of Victim Services, at <https://ovs.ny.gov/>