



## **METROPOLITAN LEARNING INSTITUTE**

Licensed by the New York State Education Department

Non-Profit Educational Organization

*" Innovative Approach Is Our Way to Success "*

[www.gettraining.org](http://www.gettraining.org)

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Phone (718) 492-2120  
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# **2019-2020 Metropolitan Learning Institute Annual Security and Fire Safety Report**

**Metropolitan Learning Institute**  
**Annual Security and Fire Safety Report 2019**

*(Reporting statistics from 2016 through 2019)*

**Metropolitan Learning Institute**  
**OPE ID: 03652300**

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**On-campus Student Housing Facilities**

The MLI campuses are commuter schools and do not offer on-campus student housing facilities.

**Local Police Crime Statistics**

Local NYPD statistics are included with the campus's statistics whenever possible.

# 2019 Metropolitan Learning Institute Annual Security and Fire Safety Report

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**At Metropolitan Learning Institute (MLI), we believe that a safe campus is everyone's right -- and also everyone's responsibility. Campus safety is a collective effort that involves the cooperation of all concerned: students, faculty and staff. Our goal is to foster a stable environment in which security is balanced with freedom of movement on an open campus.**

## **Security and Access**

Access to campus facilities is a privilege extended to students, faculty, staff, and authorized guests. Metropolitan Learning Institute encourages an open environment with limited constraints while still ensuring the reasonable protection of all members of the MLI community.

The public can attend cultural and recreational events on campus with access limited to the facilities in which these events are held. To report any violations of this policy or to report suspicious persons, contact the front desk staff or the campus director:

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## **Academic/Administrative Areas**

Students, faculty and employees have access to academic, common and administrative facilities on campus during regular hours of operation.

During non-business hours access to the Campus facilities is by key, if issued.

All maintenance vendors are required to report to the campus reception and log in. At that time they are escorted to their work site and monitored at their work site by the Campus Director or other authorized personnel. At the conclusion of their work day on site, maintenance vendors are required to report back to the reception area and log out for the day.

## **Soliciting and Commercial Activity**

No soliciting or commercial activity by outside organizations or individuals is allowed in Metropolitan Learning Institute facilities without specific written authorization from the Campus Director. No soliciting or commercial activity by students is permitted on campus or via Metropolitan Learning Institute facilities (including through the use of MLI's online or network systems) without prior specific written authorization from the Campus Director.

## 2019 Metropolitan Learning Institute Annual Security and Fire Safety Report

### Annual Fire Safety Report

The Higher Education Opportunity Act and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (The Clery Act) requires higher education institutions to collect, report and disseminate reported crime data and information and fire statistics to the campus community, the Department of Education, and prospective students and employees. This report contains crime data as classified by the definitions from the Federal Bureau of Investigations Uniform Crime Reporting Handbook (UCR). As per Clery Act regulations, this report contains data from the 2018, 2017, and 2016 calendar years. The compliance document is available for review 24-hours a day on the school's website at

[http://gettraining.org/policies/2019%20MLI%20Crime\\_Data\\_2018\\_Rpt.pdf](http://gettraining.org/policies/2019%20MLI%20Crime_Data_2018_Rpt.pdf)

### Fire Statistics

| Fire Statistics 2016 | Unintentional Fire | Intentional Fire | Undermined Fire | Number of Deaths | Number of Injured | Value of Property Damage |
|----------------------|--------------------|------------------|-----------------|------------------|-------------------|--------------------------|
| Rego Park            | 0                  | 0                | 0               | 0                | 0                 | 0                        |
| Jackson Heights      | 0                  | 0                | 0               | 0                | 0                 | 0                        |
| Brooklyn             | 0                  | 0                | 0               | 0                | 0                 | 0                        |

### Metropolitan Learning Institute Facility Names, Addresses and Phone Numbers

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### Fire Safety (All Campuses)

A fire may include visible flames or strong odors of burning. The appropriate emergency action is for persons to evacuate the building quickly and safely, call the New York City Fire Department (911) first and notify the Campus Director by dialing the main number given above from a campus phone or a private cellular phone.

Each Campus will hold fire drills on a periodic basis, depending on building scheduled Fire/EAP Drills and also for each new class start. Evacuation instructions are posted in each office and classroom and in public areas. Additionally, each campus is equipped with multiple fire extinguishers.

### If the Fire Can be Extinguished

- ☐ If the fire alarm has not gone on automatically, pull the nearest fire alarm and call the Fire Department (911).
- ☐ If you are the person who discovered the fire, extinguish it only if you can do so safely and quickly.

- ☐ Use an appropriate fire extinguisher to control the fire only if you have had fire extinguisher training, the fire is confinable and your personal safety is not placed in jeopardy.
- ☐ If the fire is extinguished, call the Campus Director by dialing the main number given above from a campus phone or a private cellular phone.

## **If the Fire Cannot be Extinguished**

- ☐ Confine the fire by closing the nearest doors.
- ☐ If the fire alarm has not gone on automatically, pull the nearest fire alarm and call the Fire Department (911).
- ☐ Call the Campus Director by dialing the main number above from a campus phone or a private cellular phone.
- ☐ Alert the Fire Warden and follow all instructions from the Fire Warden.

## **For Occupants of the Building**

- ☐ Follow all instructions given over the PA system and/or by the Fire Safety Director.
- ☐ Close the doors to your immediate area.
- ☐ EVACUATE the building via the nearest exit, only if instructed. Assist others in exiting the building.
- ☐ DO NOT use elevators (Main Campus).
- ☐ Avoid smoke filled areas. See evacuating, below.
- ☐ If you cannot escape, stay near the windows. Be calm and wait for rescue.

## **For Persons Evacuating from the Immediate Area**

- ☐ Assigned searchers on each floor with check all offices, classrooms, rest rooms, etc. to ensure all individuals present are evacuating.
- ☐ Feel any door from top to bottom with the back of your hand. If it is hot, DO NOT proceed; go back.
- ☐ If the door is cool, crouch low and open the door slowly. Close the door quickly if smoke is present so you do not inhale it.
- ☐ If no smoke is present, exit the building via the nearest stairwell or exit.
- ☐ If you encounter heavy smoke in a stairwell, go back and try another stairwell.

## **Fire Safety Training/Education**

Fire safety and training efforts are an ongoing effort at Metropolitan Learning Institute.

- ☐ All new students and new employees are given mandatory fire safety training in conjunction with other training during New Student Orientation or Employee Orientation Sessions, which are mandatory.
- ☐ The Metropolitan Learning Institute Campus Crime Report and Fire Drill Logs are made available to every employee and student in December of each year as well as being posted in each campus for public view.



**EVACUATION PROCEDURES**

In the event of a life-threatening situation, dial 911 directly. Then notify the Campus Director by dialing the main number given above from a campus phone or a private cellular phone. Prompt reporting helps improve campus safety.

**Rego Park Main Campus:** Instructions regarding when and how to evacuate will be given over the PA system. There are three options during any emergency:

1. Shelter in Place: You will be instructed on how to secure your area to ensure the safety of you and the individuals around you. This may include locking doors, covering vents, etc.
2. In-Building Relocation: You will be instructed to move to another location in the building, typically three floors below the emergency floor.
3. Evacuate the Building: You will be instructed to evacuate using the below procedures.

**Brooklyn Campus:** Warning will be given by fire alarm bell. There are two options during any emergency:

1. Shelter in Place: You will be instructed on how to secure your area to ensure the safety of you and the individuals around you. This may include locking doors, covering vents, etc.
2. Evacuate the Building: You will be instructed to evacuate using the procedures below.

**Evacuation Instructions**

1. Do not use elevators (Rego Park only) during a building evacuation. In many cases, the elevators will go immediately to the first floor of the building the moment an alarm sounds and remain there until they are reset. It is dangerous to use any elevator during an emergency evacuation.

2. Assist those with disabilities in exiting the building.

1. To assist the visually impaired:

- ☐ Announce the type of emergency.
- ☐ Offer your arm for guidance.
- ☐ Tell the person where you are going and obstacles you encounter.
- ☐ When you reach safety, ask if further help is needed.

2. To assist hearing impaired:

- ☐ Turn lights on/off to gain the person's attention.
- ☐ Indicate directions with gestures or write a note with evacuation instructions.

3. People using crutches, canes or walkers:

- ☐ Evacuate these individuals as injured persons.
- ☐ Assist and accompany to evacuation site if possible.
- ☐ Use a sturdy chair (or one with wheels) to move the person or help carry the individual with the assistance of 2-3 others.

4. Wheelchair users:

- ☐ Non-ambulatory persons' needs and preferences vary.
- ☐ Individuals at ground floor locations may exit without help. Others have minimal ability to move and lifting may be dangerous.

- ☐ Some non-ambulatory persons have respiratory complications. Remove them from smoke and vapors immediately.
  - ☐ Wheelchair users with electrical respirators get priority assistance.
  - ☐ Most wheelchairs are too heavy to take down stairs. Consult with the person to determine best carry options.
  - ☐ Reunite the person with the chair as soon as it is safe to do so.
3. If you are unable to leave the building due to a physical disability, call the Floor Warden to request rescue assistance. Be sure to give your name, specific location and any other important information. If possible, signal out or through the window to on-site emergency responders. Try to establish a “buddy” system to have someone ready to assist you.
  4. Check offices, classrooms and restrooms.
  5. Turn equipment off, if possible.
  6. Close doors but do not lock them.
  7. Instructors should assist students (see further instructions for Faculty/Instructors at the end of section).
  8. Leave by the nearest marked exit and alert others to do the same.
  9. Once outside, proceed to the predetermined assembly area that should be at least 500 feet away from the affected building and await instructions. Keep streets, fire lanes, hydrant areas and walkways clear for emergency vehicles and personnel. Know your area assembly points. Evacuation sites for each campus are listed below.
  10. Do not reenter the building until emergency personnel give the “all clear” signal.

### **Evacuation Assembly Area (Rego Park Campus)**

The MLI evacuation assembly area is in front of 97-45 Queens Boulevard.

### **Evacuation Assembly Area (Brooklyn Campus)**

The MLI evacuation assembly area is in front of the OLP Church on 5<sup>th</sup> Avenue between 59<sup>th</sup> and 60<sup>th</sup> Streets.

### **Procedures for Campus Directors**

Once the building has evacuated to the area designated for that campus, the Campus Director will organize faculty/staff into smaller groups for a head count according to classes/departments/offices. To assist in the evacuation effort, each campus will be equipped with an emergency evacuation kit. The emergency evacuation kit will be located in a central location. Should the Campus Director not be present at the time of the evacuation, the next staff in charge (a designated alternate) should locate the evacuation kit and begin organizing faculty/ staff into smaller units at the evacuation site.

### **Physical head counts after evacuation**

1. Updates to the Staff and Faculty List and Class Rosters are made as needed by the Campus Director in consultation with Human Resources/Registrar if necessary. The

coordinator must have an accurate count at all times of how many individuals need to be accounted for in the event of an evacuation including students and any non-regular workers in the building.

2. In the event of an evacuation, the Campus Director should bring the Staff and Faculty List and Class Rosters for their facility with them in order to ensure an accurate count of who is present and who is absent. The names and last known locations of persons not accounted for must be recorded and communicated to the President and Fire Safety Director. The names of last known locations will then be submitted to the Emergency Operations Center for emergency rescue if necessary.

3. If an evacuation of a facility is necessary while class is in session, a list of all missing persons will be delivered to the Registrar's Office for printout of the faculty member's teaching schedule.

4. Non-regular employees such as contractors, students and visitors frequent each campus. Each office/department in the campus should be sure to make note of these.

### **Confirmation that each room has been completely evacuated and the doors closed**

If a facility is evacuated due to a life-threatening emergency, it may be difficult for staff members to confirm that each room has been completely evacuated and the doors closed without placing themselves in danger. Once a facility has been evacuated, the appropriate emergency personnel should be responsible for checking the building to confirm that all spaces in the building have been completely evacuated.

### **Procedures for Faculty/Instructors**

The instructor is an authoritative figure for the student, either consciously or subconsciously, and can influence how the student responds in an emergency. Calm, collected and clear directions by the instructor will have a calming effect on the students. An instructor should:

1. Review with his or her class general information relating to emergency procedures during the first week of study.
2. Know how to report an emergency from the classroom being used.
3. Assure that persons with disabilities have the information they need. The instructor should be familiar with the disabled student's plan and be able to direct visitors with disabilities.
4. Take responsible charge of the classroom and follow emergency procedures for all building alarms and emergencies.
5. Know evacuation routes as well as the pre-determined evacuation assembly area.
6. Assist the Campus Director with accounting for students. With a full class, accounting for all students can be difficult. Some suggestions: use the class roster, do a head count and have students see if the students seated next to them are at the assembly point.
7. Suggested materials to have in class: roster and important telephone numbers.

**Be Prepared for Emergencies**

Decide upon a plan of action in advance and remember that prevention is the key to your personal safety. It is the responsibility of each Campus Director to review emergency action plans with employees on a regular basis (either as a group or individually).

If you are temporarily or permanently disabled, please inform your department head. The department head will help determine an action plan based upon your specific needs.

**SHELTER IN PLACE PROCEDURES—What it Means to “Shelter in Place”**

If an incident occurs and the buildings or areas around you become unstable, or if the air outdoors becomes dangerous due to toxic or irritating substances (cf. steam), it is usually safer to stay indoors, because leaving the area may expose you to that danger. Thus, to “shelter-in-place” means to make a shelter of the building that you are in, and with a few adjustments this location can be made even safer and more comfortable until it is safe to go outside.

**Basic “Shelter-in-Place” Guidance**

If an incident occurs and the building you are in is not damaged, stay inside in an interior room until you are told it is safe to come out. If your building is damaged, take your personal belongings (purse, wallet, etc.) and follow the evacuation procedures for your building (close your door, proceed to the nearest exit, and use the stairs instead of the elevators). Once you have evacuated, seek shelter at the assembly point. If police or fire department personnel are on the scene, follow their directions.

**How You Will Know to “Shelter-in-Place”**

A shelter-in-place notification may come from several sources, including building management, the Campus Director, other school employees, or FDNY/NYPD, or other authorities utilizing 311 emergency communications tools.

**How to “Shelter-in-Place”**

No matter where you are, the basic steps of shelter-in-place will generally remain the same. Should the need ever arise; follow these steps, unless instructed otherwise by local emergency personnel:

1. If you are inside, stay where you are. Collect any emergency shelter-in-place supplies and a telephone to be used in case of emergency. If you are outdoors, proceed into the closest building quickly or follow instructions from emergency personnel on the scene.
2. Go to an interior room that is above ground level and has no windows. In the case of a chemical threat, an aboveground location is preferable because some chemicals are heavier than air and may seep into basements even if the windows are closed.
3. Seal all gaps around the door, around windows, and any vents into the room.
4. Keep watching your digital device, radio or television until you are given an "all clear" or told to evacuate.

5. If you must go out or find that harmful vapors enter your shelter, covering your mouth with a damp cloth may provide minimal breathing protection.

## **EMERGENCY RESPONSE**

Metropolitan Learning Institute has developed an Emergency Action Plan, the purpose of which is to, in the event of a major emergency or disaster:

- ☐ Save the maximum number of lives, minimize injuries and protect property.
- ☐ Provide direction and resources for Emergency Response Coordinators.
- ☐ Provide information and resources for the campus community.
- ☐ Provide for the timely receipt and rapid dissemination of warning information.
- ☐ Ensure that Metropolitan Learning Institute remains viable.
- ☐ Preserve fiscal activities essential for the survival and recovery from the emergency or disaster.

Metropolitan Learning Institute shall conduct continuous planning to minimize the risk of personal injury and property loss from emergencies, shall cooperate with governmental agencies charged with disaster control and shall take necessary steps to assure continuity of business operations and restoration of normal activities as soon as possible following an emergency or a disaster.

The following are the objectives of a coordinated response to campus emergencies:

- ☐ More rapid response.
- ☐ Venue for promptly identifying and supporting school decision makers.
- ☐ System for evaluating all emergencies to improve our responses.
- ☐ Reduced exposure to vicarious liability.
- ☐ Improved management of public information.

## **Scope**

This Emergency Action Plan for Metropolitan Learning Institute assigns responsibilities for the development, implementation and maintenance of the plan. The procedures apply to all personnel, facilities and properties operated by Metropolitan Learning Institute and include those peripheral areas adjoining MLI campuses.

This plan is the basic framework for emergency preparedness. It is not intended to cover every department's individual needs. Each department will supplement the plan to suit their own needs while remaining in compliance with the plan.

All emergencies and disaster situations share certain commonalities. This plan is designed to operate in any type of emergency or disaster whether natural, technological or civil. Specific actions are further described in the Concept of Operations and will be outlined in functional annexes developed for each operational department.

All requests for procedural changes, suggestions or recommendations should be submitted in writing to the President.

## **Concept**

### **The Role of Government**

Local, State, County and Federal Government have the main responsibility for emergency management activities that impact lives and property. The City of New York will take a comprehensive role in emergency management to protect life and property from the effects of disasters.

When the emergency exceeds their capability, the City of New York will request assistance from other governmental agencies, including the State of New York and the Federal Government. Private sector and voluntary organizations may be requested to provide aid and assistance.

The Metropolitan Learning Institute Campus Directors maintain a liaison with the local NYPD Precincts where their campuses are located.

### **Availability of Outside Assistance**

NOTE: These governmental and private resources may not be available immediately following a significant emergency or disaster. Other local businesses may simultaneously be vying for governmental resources. Also, communication and traffic problems may exist that will cause significant delay.

### **Administrative Structure**

The President has designated himself to function as the Plan Executive and Director. If the President is on campus and communications or logistics allow for it, he will participate in all significant decisions.

The Metropolitan Learning Institute Emergency Action Plan is structured around an EOC and Emergency Response Coordinators. MLI will provide and manage its own resources when responding to an emergency or disaster. This will be conducted from the EOC during significant emergencies or disasters.

Departments seeking additional resources during an emergency or disaster must work through or receive authorization from the EOC. Typically, the President will authorize the request.

During an emergency, those daily functions that do not contribute to the emergency operation may be suspended. The resources usually devoted to routine functions will be redirected to the emergency operations.

### **Implementation**

To report an emergency, faculty, staff and students should first dial “911” in the event of a life-threatening situation. After this call is made, contact the Campus Director by

dialing the main number given on the cover of this Report from a campus phone or a private cellular phone. The Campus Director will make notifications to all appropriate persons on campus and will notify other emergency and resources units. The President or his designee will determine whether or not to initiate the Emergency Action Plan and convene the Emergency Response Coordinators.

### **State of Emergency and Authority to Declare**

Whenever an emergency affecting the Metropolitan Learning Institute community reaches proportions that cannot be handled by routine measures, a State of Emergency may need to be declared. The authority to declare a Campus State of Emergency rests with the President or his designee. The official declaration of an emergency shall authorize the appropriate procedures necessary to respond to the incident and safeguard persons and property and the contingencies outlined in this plan will be implemented.

When a State of Emergency is declared, it may become necessary to restrict access to specific areas on campus to authorized individuals. Only those authorized individuals who have been assigned emergency or resource duties will be allowed to enter the area or building affected by the incident.

In all emergencies, the Campus Director has primary responsibility for immediate response and shall cooperate and coordinate with the President as well as local government response units.

### **Weapons on Campus**

Firearms and dangerous weapons/instruments of any type are not permitted on campus. The use, possession or sale of firearms or other dangerous weapons by anyone is a violation of local, state and federal law as well as a violation of MLI's Student Code.

### **NOTIFICATION TO THE MLI COMMUNITY ABOUT AN IMMEDIATE THREAT**

The Metropolitan Learning Institute warning system consists of telephone, email, voicemail, and fire alarm systems. It is designed to send emergency information quickly throughout the campuses.

### **Telephone Contact System**

The Emergency Action Plan Coordinator (Main Campus Director) is responsible for updating and publishing the Telephone Contact System. This contact system is used during catastrophic emergencies. The President is the first contact who will then initiate the contact system by calling strategic departments and the Campus Directors. The contacts "branch out" from that point. The objective of the telephone contact system is to accurately notify every campus department of a current or impending emergency.



**School Closing Notification Tree:** Used to facilitate contacts in a weather emergency when offices are not open. The President and the Campus Directors are the decision makers. Closings due to weather will also be reported at:

Main Campus:  
97-77 Queens Blvd., 9<sup>th</sup> Floor  
Rego Park, NY 11374  
Phone (718) 897-0482

Extension:  
550 59<sup>th</sup> Street  
Brooklyn, NY 11220  
Phone (718) 492-2120

- ☐ [www.gettraining.org](http://www.gettraining.org)
- ☐ Metropolitan Learning Institute's Facebook page

**Catastrophic Emergency Notification Tree:** Used during emergencies which affect the entire school or require a campus-wide response.

## Department Planning

- ☐ Know where your contact lists are. Be sure to have copies at home.
- ☐ Know your department's position on the contact lists.
- ☐ Each department has the responsibility to develop its own internal notification system to supplement the initial telephone contact system.

## Department Actions

- ☐ Relay the emergency information to members of your department and to the departments you are responsible for on the list.
- ☐ Accurately record any emergency notification.
- ☐ Obey the emergency directive (i.e. evacuate the building, take shelter, etc.).

## Public Radio

Emergency Broadcast System (EBS) Radio Stations:  
New York City AM WABC 770 kHz NYC  
FM WPLJ 95.5 MHz NYC

## School Telecommunications System

Depending upon the nature and severity of the emergency, the school will implement the telephone system in one of the following ways:

- ☐ The School and Emergency Closing hotline will have an updated message that can be accessed by dialing:

Main Campus:  
97-77 Queens Blvd., 9<sup>th</sup> Floor  
Rego Park, NY 11374  
Phone (718) 897-0482

Extension:  
550 59<sup>th</sup> Street  
Brooklyn, NY 11220  
Phone (718) 492-2120

- ☐ The main greeting will have a special recorded message that callers will hear immediately prior to hearing any of the menu options.

## E-mail

When possible, the President or Campus Director may augment the telephone contact system with urgent email messages to key departments.



## **INCIDENT REPORTING**

It is Metropolitan Learning Institute's policy that reports of all incidents of actual or attempted criminal behavior, violence, vandalism, threatening or suspicious circumstances should be reported to the Campus Director and the School President. All departments are mandated to follow the same protocol in reporting any incidents or concerns in writing and submit them to the appropriate offices. Training in regards to the proper procedure of filing of an incident report is offered to all MLI staff throughout the academic year as well as during orientation. The procedures for reporting a crime are also part of this training.

### **External Reporting Agencies (All Campuses)**

#### **Police**

##### **Rego Park Campus: 112<sup>th</sup> Precinct (911)**

Commanding Officer: Captain Jonathan Cermeli  
68-40 Austin Street, Forest Hills, NY, 11375  
(718) 520-9311

##### **Brooklyn Campus: 72nd Precinct (911)**

Commanding Officer: Deputy Inspector Emmanuel Gonzales.  
830 4<sup>th</sup> Avenue, Brooklyn, NY 11232  
(718) 965-6311

**Reporting Sexual Assaults:** NYPD Special Victims Unit (646) 610-7272

**Child Abuse** (800) 342-3720

**Ambulance** (911)

#### **Fire**

New York Fire Department (911)  
Headquarters of NYC Fire Department (718) 999-2000

#### **Hospitals**

Two local hospitals in the Rego Park campus vicinity are: Forest Hills Hospital 102-01 66th Rd, Forest Hills, NY (718) 830-4000 and NY Hospital Medical Center of Queens 56-45 Main St., Flushing, NY. (718) 670-1185.

Two local hospitals in the Brooklyn campus vicinity are: Maimonides Hospital, 4802 10th Avenue, Brooklyn, NY 11219, (718) 630-0000 and Lutheran Hospital, 5434 2<sup>nd</sup> Avenue, Brooklyn, NY 11220. (718) 283-6000

**New York City Department of Health** (866) 692-3641

**Poison (Control Center)** (212) 764-7667

**NYC Domestic Violence Hotline Safe Horizon** (800) 621-4673

**Substance Abuse / Addictions:**

Overcomers Outreach (800) 310-3001

[www.overcomersoutreach.org](http://www.overcomersoutreach.org)

Celebrate Recovery

[www.saddlebackresources.com/Celebrate-Recovery-C5.aspx](http://www.saddlebackresources.com/Celebrate-Recovery-C5.aspx)

**Sexual Abuse:**

NYC Alliance Against Sexual Assault (212) 229-0345

32 Broadway, Suite 1101, New York, NY 10004

Safe Horizon Rape & Sexual Assault Hotline (212) 227-3000 or

(800) 621-4673

**American Red Cross**

[www.nyredcross.org](http://www.nyredcross.org)

520 West 49th Street, New York, NY 10019

**New York State Emergency Management Office (518) 292-2200**

1220 Washington Avenue

Building 22, Suite 101, Albany, NY 12226-2251

<http://www.dhSES.ny.gov>

**NYC Department of Buildings (212) 566-5000**

280 Broadway, 7th floor, New York, NY 10007

**New York State Department of Insurance**

Disaster Hotline (800) 339-1759

<http://www.dfs.ny.gov/consumer/disascon.htm>

**New York State Coalition Against Sexual Assault (NYSCASA)**

28 Essex Street, Albany, NY 12206 (518) 482-4222

**New York State Office for the Prevention of Domestic Violence**

80 Wolf Road, Albany, NY 12205 (800) 457-5800

**SEX OFFENDER REGISTRATION**

In accordance to the "Campus Sex Crimes Prevention Act" of 2000, which amends the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, the Jeanne Clery Act and the Family Educational Rights and Privacy Act of 1974, Metropolitan Learning Institute is providing a link to the New York State Division of Criminal Justice Sex Offender Registry.

This act requires institutions of higher education to issue a statement advising the campus community where law enforcement information provided by a State concerning registered sex offenders may be obtained. It also requires sex offenders already required

to register in a State to provide notice of each institution of higher education in that State at which the person is employed, carries a vocation, or is a student.

### **NYS Division of Criminal Justice - Office of Sex Offender Management Sex Offender Registry**

The New York State Sex Offender Registration Act (Correction Law Article 6-C), known as SORA, established a Sex Offender Registry within the New York State Division of Criminal Justice Services. SORA was enacted to assist local law enforcement agencies and to protect communities by: 1) requiring sex offenders to register with the State; and, 2) providing information to the public about certain sex offenders living in their communities. SORA took effect on January 21, 1996.

SORA requires the registration of individuals convicted in New York State of certain sex offenses as well as the registration of those individuals convicted in another jurisdiction if the offense is equivalent to a New York State registrable sex offense. In addition, if the individual is convicted of a felony requiring registration in the conviction jurisdiction or the individual is convicted of one or more specific federal or military offenses, the individual will be required to register in New York State.

Individuals convicted of one or more registrable offenses on or after the effective date of SORA must register with the Division.

Additionally, any person convicted of a registrable offense who was incarcerated or under parole or probation supervision on January 21, 1996 is required to be registered. Sex offenders are classified as low risk (Level 1), moderate risk (Level 2) or high risk (Level 3). SORA requires the Division of Criminal Justice Services to maintain a public Subdirectory on the internet which can only include Level 2 and Level 3 sex offenders. While the Registry also contains information on low-risk (Level 1) sex offenders, this site provides you with public access to the Subdirectory only. Therefore, accessing this site will not provide you with information about Level 1 offenders.

You may, however, learn if an individual is a convicted sex offender listed in the Registry by calling the Sex Offender Registry (800) 262-3257.

Due to litigation in federal court, certain level 2 and level 3 offenders are not in the Subdirectory at this time. Once these offenders have had an opportunity for a due process hearing to determine the risk level, and if their risk level is determined to be level 2 or level 3, they will be included in the Subdirectory.

The New York State's Sex Offender Registry home page is located at: <http://www.criminaljustice.ny.gov/nsor/>. The Registry helps protect our families and communities by requiring sex offenders to register, and providing this information to law enforcement and the public. Sex offenders are classified by risk level: Level one (low risk); Level two (medium risk); and Level three (high risk).

Level 1 offenders are required to register for a minimum of twenty years, and level 2 and 3 offenders for life. Police and law enforcement have access to information on all sex offenders (levels 1, 2 and 3). However, under the law, information on level 1 (low-risk) offenders is not available on the public website. Only level 2 and 3 offenders are listed on the public website.

How do I search for a sex offender? To search for a sex offender on line visit the public website go to:

[http://www.criminaljustice.ny.gov/SomsSUBDirectory/search\\_index.jsp](http://www.criminaljustice.ny.gov/SomsSUBDirectory/search_index.jsp).

You can search by last name or zip code or County.

You can also call **(800) 262-3257**. By calling the 800 number you can obtain information on level 1, 2 and 3 offenders (the public website only lists level 2 and 3 offenders, the 800 line can give information on level 1, 2 and 3). If you call the 800 line you will need the offender's name and one of the following: an exact address, or a date of birth, or a driver's license number, or a social security number.

## **TIMELY WARNINGS**

Metropolitan Learning Institute is obligated to issue timely warnings of Clery Act crimes occurring within relevant geography that represent a serious or continuing threat to students and employees (subject to exceptions when potentially compromising law enforcement efforts).

### **Authorization**

The use of the Timely Warning system is authorized when an impending or occurring hazard on or off campus may impact the safety and security of the Metropolitan Learning Institute community and timely notification is necessary for the community to take protective action. In the event that a situation arises, which, in the judgment of the President, the Campus Director, or other authorized staff constitutes an ongoing or continuing threat, a campus wide "timely warning" will be issued. The warning will be issued through the MLI e-mail system and by phone to students, faculty, and staff.

Depending on the particular circumstances of the crimes, especially in all situations that could pose an immediate threat to the community and individuals, one of the individuals listed above may also post a notice on the MLI Web Page at [www.gettraining.org](http://www.gettraining.org), providing the school with more immediate notification.

In order to comply with the recent guidance concerning "Timely Warnings" required under the Clery Act, the email system will also be used to inform the Metropolitan Learning Institute community of serious crimes involving a threat to life (such as robberies, sexual assaults, aggravated assaults, etc.) that have occurred on campus, in "contiguous areas" as defined by the Clery Act, or in other areas frequented by Metropolitan Learning Institute affiliated persons within a close distance to the campus (or farther distance on a case-by-case basis). In these cases the notification process begins

when a crime is reported directly to a Metropolitan Learning Institute Campus Director or Metropolitan Learning Institute is informed of the crime by a law enforcement agency.

Metropolitan Learning Institute will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification system, unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.

## **Delivery Methods**

Delivery methods are the modes of communication through which MLI broadcasts messages to the notification groups. The currently activated delivery methods are phone and email. The delivery method(s) used will vary depending on the nature of the hazard and the purpose of the messaging.

☐ Imminent or continuing life safety hazard to a Metropolitan Learning Institute campus (such as a severe storm, active shooter or hostile intruder, HAZMAT release, suspicious device, etc.). - **All methods**

☐ Serious crimes involving a threat to life (such as robberies, sexual assaults, aggravated assaults, etc.) that have occurred on campus or in areas contiguous to the campus as defined by the Clery Act. - **All methods**

☐ Crimes involving a threat to life (such as robberies, sexual assaults, aggravated assaults, kidnapping, etc.) involving Metropolitan Learning Institute affiliated persons that have occurred off campus in areas beyond the “contiguous areas” but frequented by Metropolitan Learning Institute personnel (within one-half mile of the campus or farther distances on a case-by-case basis). – **All methods**

☐ Crimes involving a threat to life (such as robberies, sexual assaults, aggravated assaults, kidnapping, etc.) that did not directly involve Metropolitan Learning Institute affiliated persons, but could reasonably pose a threat to Metropolitan Learning Institute personnel that have occurred off campus in areas beyond the “contiguous areas” but frequented by Metropolitan Learning Institute personnel (within one-half mile of the campus or further distances on a case-by-case basis). – **All methods**

☐ Other crimes for which notification is required by the Clery Act (such as a continuing series of property crimes like burglaries, car thefts, etc.) that occur in campus buildings or in the “contiguous areas.” – **Email**

## **CONFIDENTIAL REPORTING PROCEDURES**

Confidentiality of complaints and parties will be preserved to the greatest extent possible, understanding that MLI may have an obligation to take some action even if the reporting individual is reluctant to proceed. Parties and witnesses to a complaint are also expected to maintain confidentiality of the matter, understanding that they will often not have all

the facts and that they could impair the investigation by divulging information to persons outside of the investigatory process.

If you are the victim of a crime and do not want to pursue action within the MLI Grievance System or the criminal justice system, you may still want to consider making a confidential report. With your permission, the Campus Director can file a report on the details of the incident without revealing your identity. The purpose of a confidential report is to comply with your wish to keep the matter confidential, while taking steps to ensure the future safety of yourself and others. With such information, the school can keep an accurate record of the number of incidents involving students, determine where there is a pattern of crime with regard to a particular location, method, or assailant, and alert the campus community to potential danger. Reports filed in this manner are counted and disclosed in the annual crimes statistics for the institution.

Information regarding confidentiality, privacy and non-retaliation relating to sexual violence incidents can be found in Options for Confidentially Disclosing Sexual Violence section.

### **Campus Crime Policy and Campus Security**

Metropolitan Learning Institute utilizes its own Campus Security Guard at the Brooklyn Extensions as its law enforcement authority. At the Rego Park Main Campus, security is provided by the Lefrak Organization.

Campus Security Guards do not possess arrest power, but have the authority to execute emergency protocol by dialing 911. In non-emergency incidents, Campus Security Guards report student-related instances to the Campus Director and faculty/staff instances to the President. Criminal incidents are referred to the NYPD which has jurisdiction on campus. Incident Reports are completed for each incident on campus. Campus Security Guards have the authority to ask persons for identification and to determine whether individuals have lawful business at Metropolitan Learning Institute.

Information on safety and security is provided to students and employees through the school website, postings, bulletin boards, and other means as appropriate. Each campus is responsible for fire safety, key and lock control. Campus Security Guards inspect campus facilities and promptly make repairs in areas that may affect safety and security.

Campus Safety Officers and the NYPD communicate with each other on the scene of incidents that occur in and around the campus areas. Campus Security Guards work closely with the investigative staff of the local police departments when incidents occur that require joint investigative efforts, resources, crime related reports and exchanges of information, as deemed necessary.

Metropolitan Learning Institute encourages the accurate and prompt reporting of all crimes to the Campus Director and the appropriate law enforcement agency. The School cooperates fully with all law enforcement agencies. All crime victims and witnesses are

strongly encouraged to immediately report crime to Campus Security Guards and the appropriate police agency. Prompt reporting will assure timely warning notices on campus and timely disclosure of crime statistics. A crime log is kept on file at the Main Campus; for more information, please contact the Campus Security Coordinator at 718-897-0482.

### **Institutional Crime Reporting Regarding Sexual Violence**

Reports of crimes occurring in Clery geographic locations will be included in the Metropolitan Learning Institute Annual Security and Fire Safety Report in an anonymized manner that neither identifies the specifics of the crime nor the identity of the victim/survivor.

Reports are made to the school through an employee with the authority to address complaints (Campus Security Authorities), including:

- ☐ Director of Human Resources/Title IX Coordinator, Main Campus, 718-897-0482
- ☐ Main Campus Director, Rego Park Campus, 718-897-0482
- ☐ Extension Campus Director, Brooklyn Campus, 718-492-2120
- ☐ Office Managers/Secretaries

The Family Educational Rights and Privacy Act allows institutions to share information with parents when (1) there is a health or safety emergency, or (2) when the student is a dependent on either parents' prior year federal income tax return. Generally, Metropolitan Learning Institute would not share information about a report of sexual violence with parents without the permission of the victim/survivor.

To file a criminal complaint with local law enforcement:

- ☐ NYPD Special Victims Division (646) 610-7272

When the accused is an employee, a victim/survivor may also report the incident to a Metropolitan Learning Institute Campus Director or may request that one of the above-referenced confidential or private employees assist in reporting to Human Resources. Disciplinary proceedings will be conducted in accordance with the MLI Employee Handbook. When the accused is an employee of an affiliated entity or vendor of the school, school officials will, at the request of the victim/survivor, assist in reporting to the appropriate office of the vendor or affiliated entity and, if the response of the vendor or affiliated entity is not sufficient, assist in obtaining a *persona non grata* letter, subject to legal requirements and school policy.

Metropolitan Learning Institute is obligated to issue timely warnings of Clery Act crimes occurring within relevant geography that represent a serious or continuing threat to students and employees (subject to exceptions when potentially compromising law enforcement efforts and when the warning itself could potentially identify the victim/survivor). A victim/survivor will never be identified in a timely warning (see Timely Warnings).



## **Policy Statement Addressing Counseling**

All students are informed during Orientation by their Campus Director that in the case of a request for personal counseling, confidentiality is kept to the fullest extent allowable by law with three exceptions:

- ☐ Suicidal Attempt
- ☐ Homicide
- ☐ Abuse of a minor (physical, sexual or emotional)

Should a crime occur, the student is informed of their rights and advised and encouraged when necessary to:

- ☐ go to a hospital for medical treatment;
- ☐ to take advantage of the Coming Forward Policy or Amnesty Policy, when applicable, on a voluntary basis;
- ☐ to report the crime or incident to the appropriate individual at the School on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics;
- ☐ and, to report the crime or incident to local authorities.

## **Educational Programs: Security Awareness Programs and Crime Prevention Programs**

During orientation, students are informed about security awareness and crime prevention. Various presentations outline ways to maintain personal safety and security of personal possessions, as well instructions on how to act during an active shooter situation. Students are told about crime on-campus and in surrounding neighborhoods.

A common theme of all awareness and crime prevention programs is to encourage students and employees to be aware of their responsibility for their own security and the security of others.

When time is of the essence, a campus wide warning may be issued. The warning will be issued through the school e-mail system to students, faculty and staff.

## **Alcohol and Other Drug Prevention Programs**

Each student is furnished with a copy of the School's alcohol and other drug policy as well as campus and community referral resources in the Student Handbook available on the school's website.

## **Counseling Services**

The School provides the opportunity for informal counseling services for individuals. Students may contact their Campus Director. If the issue is beyond the Director's ability to resolve, an outside referral will be made. These services are confidential and free of charge.



### Annual Disclosure of Crime Statistics

The Metropolitan Learning Institute prepares this report to comply with the Jeanne Clery Disclosure of Campus Security and Crime Statistics Act. The full text of this report as well as fire and safety policies and procedures can be found on the campus web site under Policies.

A notification is sent to the Office of the President each July from the Department of Education, providing any updated requirements for the Annual Security and Fire Safety Report. The notification is forwarded to the Campus Directors, who then contact the local NYPD precincts and FDNY firehouses to request crime and fire statistics for the campus. These are compared to internal MLI security and incident reports on file at each campus to verify accuracy, and all required statistics are submitted to the Department of Education and used by the Campus Safety Coordinator to update the Annual Security and Fire Safety Report.

Each year by December 31 a distribution is made to all enrolled students, faculty and staff of the Annual Security and Fire Safety Report. Copies of the report may also be obtained at each campus upon request.

### Campus Crime Statistics

The statistics reported below conform to the categories contained in the Crime Awareness and Campus Security Act (Clery Act). All data for all institutions are available to the public on the USDEOPE website located at <https://ope.ed.gov/campusafety>. Please note that the statistics represent reported crimes. These reports did not necessarily result in arrest, conviction or internal disciplinary action. A crime report constitutes an allegation made to any one of several campus security authorities or the local police. The report may or may not have been found to have legal merit. The following indicates the number of crimes reported on campus for the past 3 calendar years.

In the following categories, "Public Property" reflects the public property around Metropolitan Learning Institute Main Campus at 97-77 Queens Boulevard, Rego Park, NY 11374. Statistics reported from 112<sup>th</sup> NYPD Precinct located in Forest Hills, NY.

### Criminal Offenses On-campus

| Criminal Offense                     | 2016 | 2017 | 2018 |
|--------------------------------------|------|------|------|
| a. Murder/Non-negligent manslaughter | 0    | 0    | 0    |
| b. Negligent manslaughter            | 0    | 0    | 0    |
| c. Rape                              | 0    | 0    | 0    |
| d. Fondling                          | 0    | 0    | 0    |
| e. Incest                            | 0    | 0    | 0    |
| f. Statutory Rape                    | 0    | 0    | 0    |
| g. Aggravated assault                | 0    | 0    | 0    |
| h. Robbery/Burglary                  | 0    | 0    | 1    |
| i. Motor vehicle theft               | 0    | 0    | 0    |
| j. Arson                             | 0    | 0    | 0    |

### Criminal Offenses on Public Property

| Criminal Offense                     | 2016 | 2017 | 2018 |
|--------------------------------------|------|------|------|
| a. Murder/Non-negligent manslaughter | 0    | 0    | 0    |
| b. Negligent manslaughter            | 0    | 0    | 0    |
| c. Rape                              | 0    | 0    | 0    |
| d. Fondling                          | 0    | 0    | 0    |
| e. Incest                            | 0    | 0    | 0    |
| f. Statutory Rape                    | 0    | 0    | 0    |
| g. Aggravated assault                | 0    | 0    | 0    |
| h. Robbery/Burglary                  | 0    | 0    | 0    |
| i. Motor vehicle theft               | 0    | 0    | 0    |
| j. Arson                             | 0    | 0    | 0    |

### Hate Crimes

The following hate offenses manifest evidence of prejudice based on race, religion, sexual orientation, gender, gender identity, disability, ethnicity, or national origin.

### Hate Crimes on Campus 2018

| Criminal Offense                      | 2018 Total | Race | Religion | Sexual Orientation | Gender | Gender Identity | Disability | Ethnicity | National Origin |
|---------------------------------------|------------|------|----------|--------------------|--------|-----------------|------------|-----------|-----------------|
| a. Murder/ Non-negligent manslaughter | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| b. Negligent manslaughter             | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| c. Rape                               | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| d. Fondling                           | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| e. Incest                             | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| f. Statutory Rape                     | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| g. Aggravated assault                 | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| h. Robbery                            | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| i. Motor vehicle theft                | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| j. Arson                              | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| k. Simple assault                     | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| l. Larceny-theft                      | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| m. Intimidation                       | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| n. Destruction/ damage/ vandalism     | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |

### Hate Crimes on Campus 2017

| Criminal Offense                      | 2017 Total | Race | Religion | Sexual Orientation | Gender | Gender Identity | Disability | Ethnicity | National Origin |
|---------------------------------------|------------|------|----------|--------------------|--------|-----------------|------------|-----------|-----------------|
| a. Murder/ Non-negligent manslaughter | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| b. Negligent manslaughter             | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| c. Rape                               | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |

|                                 |   |   |   |   |   |   |   |   |   |
|---------------------------------|---|---|---|---|---|---|---|---|---|
| d. Fondling                     | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| e. Incest                       | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| f. Statutory Rape               | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| g. Aggravated assault           | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| h. Robbery                      | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| i. Motor vehicle theft          | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| j. Arson                        | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| k. Simple assault               | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| l. Larceny-theft                | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| m. Intimidation                 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| n. Destruction/damage/vandalism | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

### Hate Crimes on Campus 2016

| Criminal Offense                      | 2016 Total | Race | Religion | Sexual Orientation | Gender | Gender Identity | Disability | Ethnicity | National Origin |
|---------------------------------------|------------|------|----------|--------------------|--------|-----------------|------------|-----------|-----------------|
| a. Murder/ Non-negligent manslaughter | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| b. Negligent manslaughter             | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| c. Rape                               | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| d. Fondling                           | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| e. Incest                             | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| f. Statutory Rape                     | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| g. Aggravated assault                 | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| h. Robbery                            | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| i. Motor vehicle theft                | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| j. Arson                              | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| k. Simple assault                     | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| l. Larceny-theft                      | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| m. Intimidation                       | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| n. Destruction/damage/vandalism       | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |

### Hate Crimes on Public Property 2018

| Criminal Offense                      | 2018 Total | Race | Religion | Sexual Orientation | Gender | Gender Identity | Disability | Ethnicity | National Origin |
|---------------------------------------|------------|------|----------|--------------------|--------|-----------------|------------|-----------|-----------------|
| a. Murder/ Non-negligent manslaughter | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| b. Negligent manslaughter             | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| c. Rape                               | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| d. Fondling                           | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| e. Incest                             | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| f. Statutory Rape                     | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |

|                                   |   |   |   |   |   |   |   |   |   |
|-----------------------------------|---|---|---|---|---|---|---|---|---|
| g. Aggravated assault             | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| h. Robbery                        | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| i. Motor vehicle theft            | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| j. Arson                          | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| k. Simple assault                 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| l. Larceny-theft                  | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| m. Intimidation                   | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 |
| n. Destruction/ damage/ vandalism | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

### Hate Crimes on Public Property 2017

| Criminal Offense                      | 2017 Total | Race | Religion | Sexual Orientation | Gender | Gender Identity | Disability | Ethnicity | National Origin |
|---------------------------------------|------------|------|----------|--------------------|--------|-----------------|------------|-----------|-----------------|
| a. Murder/ Non-negligent manslaughter | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| b. Negligent manslaughter             | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| c. Rape                               | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| d. Fondling                           | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| e. Incest                             | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| f. Statutory Rape                     | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| g. Aggravated assault                 | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| h. Robbery                            | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| i. Motor vehicle theft                | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| j. Arson                              | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| k. Simple assault                     | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| l. Larceny-theft                      | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| m. Intimidation                       | 1          | 0    | 0        | 0                  | 0      | 0               | 0          | 1         | 0               |
| n. Destruction/ damage/ vandalism     | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |

### Hate Crimes on Public Property 2016

| Criminal Offense                      | 2016 Total | Race | Religion | Sexual Orientation | Gender | Gender Identity | Disability | Ethnicity | National Origin |
|---------------------------------------|------------|------|----------|--------------------|--------|-----------------|------------|-----------|-----------------|
| a. Murder/ Non-negligent manslaughter | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| b. Negligent manslaughter             | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| c. Rape                               | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| d. Fondling                           | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| e. Incest                             | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| f. Statutory Rape                     | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| g. Aggravated assault                 | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| h. Robbery                            | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |
| i. Motor vehicle theft                | 0          | 0    | 0        | 0                  | 0      | 0               | 0          | 0         | 0               |

|   |   |   |   |   |   |   |   |   |   |
|---|---|---|---|---|---|---|---|---|---|
| j. Arson                                | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| k. Simple assault                       | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| l. Larceny-theft                        | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| m. Intimidation                         | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| n. Destruction/<br>damage/<br>vandalism | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

### VAWA Offenses On-campus

| Criminal Offense     | 2016 | 2017 | 2018 |
|----------------------|------|------|------|
| a. Domestic Violence | 0    | 0    | 0    |
| b. Dating Violence   | 0    | 0    | 0    |
| c. Stalking          | 0    | 0    | 1    |

### VAWA Offenses on Public Property

| Criminal Offense     | 2016 | 2017 | 2018 |
|----------------------|------|------|------|
| a. Domestic Violence | 0    | 0    | 0    |
| b. Dating Violence   | 0    | 0    | 0    |
| c. Stalking          | 0    | 0    | 0    |

### Arrests On-campus

| Criminal Offense         | 2016 | 2017 | 2018 |
|--------------------------|------|------|------|
| a. Weapons violations    | 0    | 0    | 0    |
| b. Drug abuse violations | 0    | 0    | 0    |
| c. Liquor law violations | 0    | 0    | 0    |

### Arrests on Public Property

| Criminal Offense         | 2016 | 2017 | 2018 |
|--------------------------|------|------|------|
| a. Weapons violations    | 0    | 0    | 0    |
| b. Drug abuse violations | 0    | 0    | 0    |
| c. Liquor law violations | 0    | 0    | 0    |

### Disciplinary Actions On-campus

| Criminal Offense         | 2016 | 2017 | 2018 |
|--------------------------|------|------|------|
| a. Weapons violations    | 0    | 0    | 0    |
| b. Drug abuse violations | 0    | 0    | 0    |
| c. Liquor law violations | 0    | 0    | 0    |

### Disciplinary Actions on Public Property

| Criminal Offense         | 2016 | 2017 | 2018 |
|--------------------------|------|------|------|
| a. Weapons violations    | 0    | 0    | 0    |
| b. Drug abuse violations | 0    | 0    | 0    |
| c. Liquor law violations | 0    | 0    | 0    |

### Unfounded Crimes

| Year                   | 2016 | 2017 | 2018 |
|------------------------|------|------|------|
| Total Unfounded Crimes | 0    | 0    | 0    |

### Risk Reduction

#### Maintain Situational Awareness

- ☐ Pay attention to the behavior and actions of people and the circumstances around you.
- ☐ Be alert for danger signals (for example, someone luring you from a public area to a location out of public view).
- ☐ If something seems bad, it probably is! Take action to avoid the threat and immediately report your observations to 911.

#### Avoid Isolation

- ☐ Isolated persons are more likely to be victimized.
- ☐ Walk in groups, especially after dark. There is safety in numbers.
- ☐ Avoid isolated areas (locations in which there are no other persons nearby to see or hear if you are victimized and come to your assistance by intervening or alerting the police).
- ☐ Avoid isolation indoors (being alone in a rest room, corridor, workspace, etc.).
- ☐ Do not go into an isolated location with someone that has not yet earned your trust.

#### If you Need to get out of an Uncomfortable situation here are some things you can try:

- ☐ Remember that being in this situation is not your fault. You did not do anything wrong, it is the person who is making you uncomfortable that is to blame.
- ☐ Be true to yourself. Don't feel obligated to do anything you don't want to do. "I don't want to" is always a good enough reason. Do what feels right to you and what you are comfortable with.
- ☐ Have a code word with your friends or family so that if you don't feel comfortable you can call them and communicate your discomfort without the person you are with knowing. Your friends and family can then come to get you or make up an excuse for you to leave.
- ☐ Try to think of an escape route. How would you try to get out of the room? Where are the doors? Windows? Are there people who might be able to help you? Is there an emergency phone nearby?

#### Don't leave property unattended or unprotected

- ☐ Don't leave your valuables (handbags, wallets, laptops, etc.) unattended, even under video surveillance.
- ☐ Do not leave items in public restrooms.

#### Take precautions on the Internet

- ☐ Avoid divulging personal information and your daily movements online.
- ☐ Utilize the privacy features of the social networking sites you use.
- ☐ Be alert for phishing scams.

**Report suspicious and criminal activity**

- ☐ Understand the importance of reporting: crime cannot be prevented or solved if it isn't reported!
- ☐ Report suspicious and criminal activities immediately!
- ☐ When reporting include: location of the incident, time of occurrence, description of the activity observed, description of persons involved, location and direction of travel of suspects, presence of weapons, etc.
- ☐ Call 9-1-1 for emergencies on or off campus.

**What to do if you are directly confronted by criminal activity**

- ☐ If the assailant wants your valuables, give them up (nothing you own is worth your life)!
- ☐ If you are being assaulted there are options based on your capabilities and the circumstances:
  - o Submission – submitting to a crime may be necessary if there are no other viable options
  - o Passive resistance - talking your way out of the situation
  - o Seeking assistance – calling loudly for help and fleeing towards other persons or occupied locations
  - o Active physical resistance – If you do physically resist, the goal is to break away and get to help.

**Alcohol and Other Drugs**

Because we seek to create an environment that nurtures the spiritual, social, and intellectual growth of students, as well as support the physical and emotional well-being of each member of our community, Metropolitan Learning Institute is an alcohol-, illegal drugs-, and tobacco-free institution.

In accordance with this policy:

- ☐ Students may not consume or possess any alcoholic beverages on campus. Possession of alcohol containers will be considered a violation of this policy. Evidence of alcohol consumption and/or use of marijuana or other drugs (e.g., breath that smells of weed, impaired motor skills or judgment, disruptive, destructive, hazardous, or offensive behavior that can be linked to the consumption) will also be considered a violation of this policy.
- ☐ In compliance with the laws of NY State, students who are under 21 years of age may not drink alcohol on or off campus or be in the company of others who are drinking alcohol or displaying alcohol containers. Underage students who demonstrate evidence of alcohol use, (including, but not limited to breath that smells of alcohol, impaired motor skills and/or judgment) will be subject to sanctioning.
- ☐ Students are not permitted to be in the company of others who are using a controlled substance or who are in possession of drug-related paraphernalia.
- ☐ Any student who comes to campus in an inebriated state will be subject to sanctioning.
- ☐ Any student with a guest who comes to campus in an inebriated state will be subject to sanctioning.

- ☐ In compliance with the laws of the state of New York, public intoxication is not permitted on campus.
  - ☐ Alcoholic beverage containers, posters, and other items advertising alcoholic beverages are not permitted anywhere on campus or in conjunction with any activity associated with MLI.
  - ☐ Any use of social media (including, but not limited to Facebook, Twitter, Instagram, Vine, etc.) to show drug, alcohol, or tobacco use will be subject to sanctioning.
  - ☐ Students cannot for any reason obtain, manufacture, distribute, dispense, possess, or use any controlled substance (a drug or chemical whose manufacture, possession and use are regulated by the government) or drug-related paraphernalia. This includes use or possession of prescription medication by anyone other than for whom the prescription is written. Anyone involved in the sale or distribution of drugs on or off campus may be dismissed immediately and will be referred to law-enforcement officials.
  - ☐ Students may not use any substance, even legally obtained, for the express purpose of “getting high.” This policy includes, but is not limited to, the psychotropic use of cough medicine (DXM), inhalants, prescribed drugs, and herbs.
  - ☐ The possession or presence of any amount of a controlled substance is prohibited. This includes but is not limited to, the presence of marijuana smoke or odor, small “roaches,” or residue found in baggies, bowls, pipes, or other paraphernalia. The possession or presence of marijuana or other controlled substance, including but not limited to paraphernalia such as baggies, pipes, bowls, or bongs, may result, minimally, in suspension.
  - ☐ Any student who encourages another to consume an alcoholic beverage or use any substance as a means to induce that individual to engage in behavior that would otherwise be against that person’s will is subject to dismissal.
  - ☐ Any student who sexually assaults or attempts to sexually assault another person who is intoxicated is subject to immediate dismissal.
  - ☐ The use or possession of tobacco in any form is prohibited by Metropolitan Learning Institute Administration on campus. This includes smoking, chewing tobacco, dipping snuff, openly displaying tobacco, and advertising tobacco products in any form. Possession means having the substances or being in the presence of other Metropolitan Learning Institute students who are in possession of these substances.
- It is expected that while students are enrolled in course work, including breaks during their academic study at Metropolitan Learning Institute, they will be in compliance with the Alcohol and Other Drugs policy.

### **Sanctions**

Violation of the Alcohol and Other Drugs policy may result in sanctions ranging from a letter of reprimand to dismissal. As noted in the Student Handbook, a record of disciplinary sanctions is kept in the Student’s Folder while the student is at MLI. In accordance with FERPA, school officials, as well as parents, will be involved or notified when appropriate. The School will also involve local law enforcement officials when appropriate.



Illegal possession, use, or distribution of illicit drugs, or illegal use or possession of alcohol is punishable under applicable local, state, and federal law. Penalties include stringent fines, loss of driver's license, loss of possessions obtained through the profits of or used in the sale or distribution of illegal drugs, and/or imprisonment.

Students should also be aware that Title 21 of the U.S. Code, § 845A, provides for increased penalties for those persons who manufacture, sell or distribute narcotics, controlled substances and marijuana within 1,000 feet of a public or private elementary school location or secondary school, or public or private school, junior school, career school or university. Any student who is convicted of violating a criminal drug statute is required to notify the School, including the Bursar's Office, within five days of the conviction including pleas of "guilty" or "nolo contendere").

## Reporting

### Reporting a Student of Concern

For those in the MLI community who teach, supervise, mentor and support our Metropolitan Learning Institute students, the following guidelines may be helpful when you believe a student referral should be made.

1. Immediate (but not an emergency): Contact either the Campus Director (any campus)

Main Campus:  
97-77 Queens Blvd., 9<sup>th</sup> Floor  
Rego Park, NY 11374  
Phone (718) 897-0482

Extension:  
550 59<sup>th</sup> Street  
Brooklyn, NY 11220  
Phone (718) 492-2120

or the Campus Security Guard (Brooklyn) at (718) 492-2120 (Brooklyn) or Lefrak Security (RP) at (718)896-7267 .

If there is an immediate concern about the health or safety of a student, please be sure to speak with someone in person so MLI can respond quickly.

2. Ongoing but not an immediate health/safety concern: Contact the Campus Director if your concern does not rise to an immediate health/safety level but you feel that the student could use an additional network of support. Possible referrals could include:

- a. A student who is missing a significant number of classes.
- b. A student who is expressing disturbing thoughts/feelings in written or oral work.
- c. A student who exhibits a change in usual behavior (onset of anxiety, anger, withdrawal).

Upon getting the referral, typically within 24 hours, the Director will reach out to the student. The faculty/staff member's name will likely be used in the context of, "Faculty/staff X shared with me through our normal processes of caring for students that they are concerned about you, and I am reaching out to you to offer resources and support." From there, the Director will work with the student to determine appropriate follow up measures.

Once the Director has identified a student of concern, a decision is made to either address them individually or refer them to the Threat Assessment Team. Metropolitan Learning

Institute has established a second team entitled “Threat Assessment Team” (The Director, Office Manager, referring faculty or staff and security representative) to address any situations where students may need further assessment due to an escalation of disruptive, threatening or worrisome behaviors that have the potential to impede their own academic progress or that have the potential to impede the ability of others to function successfully or safely.

It is imperative that any member of the Metropolitan Learning Institute community – faculty, staff or students – immediately report any situation that could result in harm to anyone at the School.

### **Reporting an Employee of Concern**

Workplace violence covers a wide range of disruptive behaviors that may include threats harassment, intimidation, bullying, assaults, stalking and domestic violence that enter the workplace. Lack of awareness and/or failure to commit to action are major contributors to violence in the workplace.

1. Immediate (but not an emergency): Contact either the Campus Director (any campus)

Main Campus:  
97-77 Queens Blvd., 9<sup>th</sup> Floor  
Rego Park, NY 11374  
Phone (718) 897-0482

Extension:  
550 59<sup>th</sup> Street  
Brooklyn, NY 11220  
Phone (718) 492-2120

or the Campus Security Guard (Brooklyn) at (718) 492-2120 (Brooklyn) or Lefrak Security (RP) at (718)896-7267 .

If there is an immediate concern about the health or safety of an employee, please be sure to speak with someone in person so MLI can respond quickly.

2. Ongoing but not an immediate health/safety concern: Contact the Main Campus Director if your concern does not rise to an immediate health/safety level but you feel that the employee could use an additional network of support. Possible referrals could include:

- a. Job performance problems, such as inconsistent productivity, excessive tardiness and absenteeism, and poor relations with co-workers.
- b. Chronic, hypersensitive complaints about persecution or injustice.
- c. Holding grudges, inability to handle criticism, habitually making excuses, and blaming others.
- d. Bizarre comments or behavior, especially if it includes violent content.

### **Sexual Misconduct and Violence Policy**

#### **Sexual Assault, Dating Violence, Domestic Violence, and Stalking**

Metropolitan Learning Institute will not tolerate any type of sexual assault, dating violence, domestic violence, or stalking committed by students, faculty, staff, or against any student, faculty or staff by any individual not belonging to the campus community. Sexual offenses in the State of New York are outlined under Article 130 of the NYS Penal Law. Metropolitan Learning Institute recognizes domestic violence, dating

violence, sexual assault and stalking as defined in this document. Committing such offenses can result in lengthy terms of imprisonment and civil action.

## **Hostile Environment Harassment**

Hostile Environment Harassment is the most common kind of harassment. It occurs when repeated offensive behavior or comments create an unpleasant or intimidating environment. This includes offensive statements, materials or gestures (whether by mail, electronic communication or personal encounter) that defame the character, dignity or respect of an individual, ethnicity or culture. Such behavior will not be tolerated and will be subject to disciplinary sanctions. Hostile Environment Harassment may also involve sexual comments or inappropriate touching on a one-time basis.

## **Sexual Harassment**

Harassment on the basis of sex is a violation of New York State Law and the Federal Civil Rights Act. It is the policy of MLI to prohibit sexual harassment of its employees and students in any form. In maintaining this policy, the School seeks to affirm ethical standards universally accepted in the workplace and classroom, and uphold existing law. No practice or behavior that constitutes sexual harassment will be tolerated.

Sexual harassment is essentially a display of power intended to intimidate, coerce, embarrass or degrade another person.

Usually the harasser has power over the victim (such as a supervisor over a subordinate or a larger person over one of smaller stature), and seeks to exploit unfairly that differential in power. In any form, such behavior undermines the atmosphere of trust and collegiality that Metropolitan Learning Institute seeks to foster and is therefore unacceptable.

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of employment or academic progress; (2) submission to or rejection of such conduct is used as a basis for academic or employment decisions affecting the individual, or (3) such conduct has the purpose or effect of substantially interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive work or academic environment.

## **Reporting Harassment**

Any individual who believes that he/she has been the recipient of harassment is strongly encouraged to report the alleged occurrence(s) as soon as possible to a representative of the School with whom the individual feels comfortable discussing the matter (e.g., Campus Director, Manager, Faculty member, Human Resources, etc.). The representative will then contact the Campus Director if the alleged harasser is a student. If the alleged harasser is an employee of the School or a vendor/contractor of the School, the representative will contact the President. For instances of sexual harassment, students may also contact the Title IX Coordinator at (718) 897-0482 ext. 13.

**Sexual Assault and Dating Violence**

Sexual assault and dating violence are extreme forms of sexual harassment. The use of threat or force to obtain sexual contact, including sexual intercourse, includes any of the following: (1) any intentional, non-consensual touching or threat or attempt to touch an intimate body part of another person; (2) unwanted, inappropriate disrobing of another person or purposeful exposure of one's genitals to another; (3) forcing, or attempting to force, any other person to engage in sexual activity of any kind. By definition, a person who is intoxicated, unconscious, mentally impaired, or threatened is unable to give consent. See definitions of sex offenses in the definitions section.

**Stalking**

Metropolitan Learning Institute describes stalking as any behaviors or activities occurring on two or more occasions that collectively instill fear in a reasonable person or cause them to suffer substantial emotional distress. Such behaviors and activities may include, but are not limited to, the following:

- ☐ Non-consensual communication, including face-to-face, telephone calls, voice messages, texts and instant messages or e-mails, written letters, unwanted gifts, etc.;
- ☐ Threatening or obscene gestures;
- ☐ Pursuing or following;
- ☐ Surveillance or other types of observation;
- ☐ Trespassing;
- ☐ Vandalism;
- ☐ Non-consensual touching

Stalking behavior will not be tolerated. Incidents occurring on or off campus are subject to school discipline when such actions materially affect the learning environment or operations of the School.

Stalking is a crime under New York State law. Incidences of stalking outside New York State may be admissible in court, if it is relevant to the case, and may be punishable as a Class B misdemeanor or a Class D felony. Legal options available to victims of stalking include reporting to the local police, seeking a remedy through civil proceedings, and/or utilizing the campus disciplinary process.

**Reporting Stalking**

If an individual believes they are being stalked they should contact the following offices depending on their comfort level:

Contact either the Campus Director (any campus)

Main Campus:  
97-77 Queens Blvd., 9<sup>th</sup> Floor  
Rego Park, NY 11374  
Phone (718) 897-0482

Extension:  
550 59<sup>th</sup> Street  
Brooklyn, NY 11220  
Phone (718) 492-2120

or the Campus Security Guard (Brooklyn) at (718) 492-2120 (Brooklyn) or Lefrak Security (RP) at (718) 896-7267.

☐ Employees:

Contact Human Resources/Title IX Coordinator (718) 897-0482 ext. 13

If you know the identity of the stalker, inquire about the possibility of obtaining a restraining order. Keep a journal of everything that occurs, including dates, places and times of events. When the communication is electronic, save any voicemails, e-mails, texts and instant messages.

Victims/survivors are not required to file a police report and may decline to do so. Students can also contact their Campus Director for assistance in filing a police report. Employees may contact Human Resources for assistance in filing a police report. If the victim is unable to file a police report (i.e. they are incapacitated, unconscious, etc.) Metropolitan Learning Institute will file the report on their behalf.

## **Metropolitan Learning Institute Students' Bill of Rights**

Metropolitan Learning Institute is committed to providing options, support and assistance to victims/survivors, hereafter reporting individuals, of sexual assault, domestic violence, dating violence, and/or stalking to ensure that they can continue to participate in school-wide and campus programs, activities, and employment. All reporting individuals of these crimes and violations, regardless of race, color, national origin, religion, creed, age, disability, sex, gender identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction, have the following rights, regardless of whether the crime or violation occurs on campus or off campus.

All students have the right to:

- ☐ Make a report to local law enforcement and/or state police;
- ☐ Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
- ☐ Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the School;
- ☐ Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
- ☐ Be treated with dignity and to receive from the School courteous, fair, and respectful health care and counseling services, where available;
- ☐ 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;
- ☐ Describe the incident to as few School representatives as practicable and not to be required to unnecessarily repeat a description of the incident;
- ☐ Be protected from retaliation by the School, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the School;

- ☐ Access to at least one level of appeal of a determination;
- ☐ Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process;
- ☐ Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the School.

**Options in Brief:**

Reporting individuals have many options that can be pursued simultaneously, including one or more of the following:

- ☐ Receive resources, such as counseling and medical attention;
- ☐ Confidentially or anonymously disclose a crime or violation (for detailed information on confidentiality and privacy, see Options for Confidentially Disclosing Sexual Violence);
- ☐ Make a report to the School through an employee with the authority to address complaints (Campus Security Authorities) including:
  - ☐ Campus Director
  - ☐ Director of Human Resources/Title IX Coordinator
  - ☐ Campus Safety

**And/or**

- ☐ Local Law Enforcement; and/or
- ☐ Family Court or Civil Court.

Copies of this Bill of Rights shall be distributed annually to students, made available on Metropolitan Learning Institute's website, and posted in each campus and shall include links or information to access the ***Sexual Violence Response Policy*** below and the ***Options for Confidentially Disclosing Sexual Violence***.

**Sexual Violence Response Policy**

In accordance with the Students' Bill of Rights, reporting individuals shall have the right to pursue more than one of the options below at the same time, or to choose not to participate in any of the options below:

**Reporting**

If a member of the campus community is a victim of a sexual assault, domestic violence, dating violence, or stalking on campus, his/her first priority is to get to a place of safety. It is his/her choice to report any acts of sexual assault, domestic violence, dating violence, or stalking. If he/she wants their assailant to be held criminally accountable for the attack/unwanted sexual contact, call 911 immediately to report what occurred. If the victim, hereafter referred to as reporting individual, desires assistance in making the call, he/she can request help from a campus representative. The police may request a medical evidentiary exam.

A reporting individual may choose to report the assault and then later choose not to pursue the criminal case. If the reporting individual chooses not to report the assault immediately, he/she may still do so at a later time; however, there may be less physical evidence against the attacker if reported at a later time.

Time is a critical factor for evidence collection and preservation. To preserve evidence of the assault:

- o Obtain necessary medical treatment.
- o Ideally a survivor (reporting individual) of sexual assault should not wash, douche, brush teeth, use the toilet, or change clothing prior to a medical exam.
- o Do not straighten up the area where the assault took place.
- o The reporting individual should keep a journal of everything that occurred, including dates, places and times of events.
- o When the communication is electronic, he/she should save any voicemails, e-mails, texts and instant messages. (If the reporting individual has already cleaned up from the assault, the crime can still be reported and the police will take a report to investigate.)

#### **Options for Privately Disclosing Sexual Violence Policy:**

- ☐ To disclose the incident to one of the following Metropolitan Learning Institute officials who can offer *privacy* and can provide information about remedies, accommodations, evidence preservation, and how to obtain resources. Those officials will also provide the information contained in the Students' Bill of Rights, including the right to choose when and where to report, to be protected by Metropolitan Learning Institute from retaliation, and to receive assistance and resources from Metropolitan Learning Institute. These Metropolitan Learning Institute officials will disclose that they are private and not confidential resources and they may still be required by law and Metropolitan Learning Institute policy to inform one or more other Metropolitan Learning Institute officials about the incident, including but not limited to the Title IX Coordinator. They will notify reporting individuals that the criminal justice process uses different standards of proof and evidence than internal procedures, and questions about the penal law or the criminal process should be directed to law enforcement or the district attorney.
- ☐ To file a report of sexual assault, domestic violence, dating violence, and/or stalking, and/or talk to the Title IX Coordinator for information and assistance. Reports will be investigated in accordance with Metropolitan Learning Institute policy and the reporting individual's identity shall remain private at all times if said reporting individual wishes to maintain privacy.

Contact either the Campus Director (any campus)

Main Campus:  
97-77 Queens Blvd., 9<sup>th</sup> Floor  
Rego Park, NY 11374  
Phone (718) 897-0482

Extension:  
550 59<sup>th</sup> Street  
Brooklyn, NY 11220  
Phone (718) 492-2120

Or contact Human Resources/Title IX Coordinator (718) 897-0482 ext. 13.



- ☐ To disclose *confidentially* the incident and obtain services from New York State presented in several languages:  
<http://www.opdv.ny.gov/help/index.html> (or by calling 1-800-942-6906), and assistance can also be obtained through:
  - o RAINN: <https://www.rainn.org/get-help>
 (Note that these hotlines are for crisis intervention, resources, and referrals, and are not reporting mechanisms, meaning that disclosure on a call to a hotline does not provide any information to the campus. Reporting individuals are encouraged to additionally contact a campus private resource so that the campus can take appropriate action in these cases).
- ☐ To file a criminal complaint with local law enforcement:
  - NYPD Special Victims Division (646) 610-7272
  - State police 24-hour hotline to report sexual assault on a NY school campus: 1-844-845-7269.**
- ☐ You may withdraw your complaint or involvement from the Metropolitan Learning Institute process at any time.
- ☐ Metropolitan Learning Institute shall ensure that, at a minimum, at the first instance of disclosure by a reporting individual to a school representative, the following information shall be presented to the reporting individual: “You have the right to make a report to Campus Safety, local law enforcement, and/or State Police or choose not to report; to report the incident to Metropolitan Learning Institute; to be protected by Metropolitan Learning Institute from retaliation for reporting an incident; and to receive assistance and resources from Metropolitan Learning Institute.”
- ☐ When the accused is an employee, a reporting individual may also report the incident to the Metropolitan Learning Institute Office of Human Resources or may request that one of the above referenced confidential or private employees assist in reporting to Human Resources. Disciplinary proceedings will be conducted in accordance with applicable policies in the Employee Handbook. When the accused is an employee of an affiliated entity or vendor of Metropolitan Learning Institute, school officials will, at the request of the reporting individual, assist in reporting to the appropriate office of the vendor or affiliated entity and, if the response of the vendor or affiliated entity is not sufficient, assist in obtaining a persona non grata letter, subject to legal requirements and Metropolitan Learning Institute policy.

## Resources:

### Local Services:

- o NYC Alliance Against Sexual Assault; 32 Broadway Suite 1101, New York, NY 10004; (212)229-0345
- o Violence Intervention Program 1-800-664-5880
- ☐ Additional disclosure and assistance options are catalogued by the Office for the Prevention of Domestic Violence and presented in several languages:  
<https://ovs.ny.gov/sites/default/files/generalform/servicesinyourlanguagecomplaintformenglish.pdf>.
  - ☐ Assistance can also be obtained through:
    - o Legal Momentum: <https://www.legalmomentum.org/>
    - o SCADV: <http://www.nyscadv.org/>



o Safe Horizons: <http://www.safehorizon.org/>

(Note that these hotlines are for crisis intervention, resources, and referrals, and are not reporting mechanisms, meaning that disclosure on a call to a hotline does not provide any information to the campus. Victims/survivors are encouraged to additionally contact a campus confidential or private resource so that the campus can take appropriate action in these cases).

### **Protection and Accommodations**

- When the accused is a student,
  - to have the school issue a “No Contact Order,” consistent with school policy and procedure, meaning that continuing to contact the protected individual is a violation of school policy subject to additional conduct charges; if the accused and a protected person observe each other in a public place, it is the responsibility of the accused to leave the area immediately and without directly contacting the protected person. Both the accused/respondent and reporting individual may request a prompt review of the need for and terms of a No Contact Order, consistent with Metropolitan Learning Institute policy. Parties may submit evidence in support of their request. MLI will establish appropriate schedules for accused and respondents regarding access to applicable classrooms at times when reporting individuals are not accessing them.
  - To have assistance from School Officials in initiating legal proceedings in family court or civil court, including but not limited to obtaining an Order of Protection or, if outside of New York State, an equivalent protective or restraining order.
  - To receive a copy of the Order of Protection or equivalent and have an opportunity to meet or speak with local police and school officials who can explain the order and answer questions about it, including information from the Order about the accused’s responsibility to stay away from the protected person(s); that burden does not rest on the protected person(s).
- o To give an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension.
- o To have assistance from school officials in effecting an arrest when an individual violates an Order of Protection or, if outside of New York State, an equivalent protective or restraining order within the jurisdiction of local police. Since Metropolitan Learning Institute Campus Safety does not have arresting powers, they will call on and assist local law enforcement in effecting an arrest for violating such an order.
- o When the accused is a student and presents a continuing threat to the health and safety of the community, to have the accused subject to interim suspension pending the outcome of a conduct process. Parties may request a prompt review of the need for and terms of an interim suspension, including potential modification and may submit evidence in support of their request.
- o When the accused is not a student, but is a member of the school community, and presents a continuing threat to the health and safety of the community, to subject the accused to interim measures in accordance with the employee handbook, and Metropolitan Learning Institute’s policies and rules.

o When the accused is not a member of the school community, to have assistance from Campus Safety or other school officials in obtaining a persona non grata letter, subject to legal requirements and Metropolitan Learning Institute policy.

☐ Student Reporting Individuals

- To obtain reasonable and available interim measures and accommodations that effect a change in academic, housing, employment, transportation, or other applicable arrangements in order to ensure safety, prevent retaliation, and avoid an ongoing hostile environment consistent with Metropolitan Learning Institute policies and procedures. Parties may request a prompt review of the need for and terms of any interim measures and accommodations that directly affect them, including a potential modification, and they may submit evidence supporting the request. While reporting individuals may request accommodations through any of the offices referenced in this policy, the following office can serve as a point to assist with these measures:

- o MLI Title IX Coordinator, (718) 897-0482 ext. 13

☐ Employee Reporting Individuals

☐ Depending on the particular allegations of a reported issue, employee victims may be given an adjustment to their work environment while an investigation proceeds. Whenever possible and appropriate, the interim adjustments would be made to the accused employee, rather than to the reporting individual (complainant). Such adjustments may include a work location change, supervisor change, work duties change and/or an administrative leave.

Employees and their dependents may contact the Employee Assistance Program for confidential support, resources, and information. Human Resources can also assist with referral to professional counseling.

**Any violation of this policy shall result in disciplinary action including, but not limited to, warning, reprimand, probation, suspension, expulsion or dismissal. Retaliation against an individual for bringing a sexual harassment complaint is prohibited by law and will lead to further disciplinary action. Nothing in this policy shall preclude a student from seeking redress through external legal proceedings.**

### **Bystander Intervention – How to Be an Active Bystander**

Bystanders play a critical role in the prevention of sexual and relationship violence. A bystander is anyone who observes an emergency or a situation that looks like someone could use some help. Even if you feel it is not your place to get involved, if it appears that someone is in immediate danger, you may choose to intervene, if it is safe to do so, or get help by calling the police. It is important to notify the police if you feel you or someone else's safety has been threatened or is in danger.

Here are some ways you can be an active bystander.

1. If you or someone else is in immediate danger, dial 9-1-1. This could be when a person is yelling at or being physically abusive towards another and it is not safe for you to interrupt.

2. Watch out for your friends and fellow students/employees. If you see someone who looks like they could be in trouble or need help, ask if they are okay.
  3. Speak up when someone discusses plans to take sexual advantage of another person.
  4. Believe someone who discloses sexual assault, abusive behavior, or experience with stalking.
  5. Refer people to the on or off campus resources listed in this report for support or offer to go with them to talk to an on-campus authority or Police.
  6. Assume personal responsibility. It is EVERYONE's responsibility to intervene to stop inappropriate behavior.
- Intervening in these situations, as soon as it is safe to do so, is the best course of action.

### **Student Conduct Process**

Any violation of this policy shall result in disciplinary action including, but not limited to, warning, reprimand, probation, suspension, expulsion or dismissal. Retaliation against an individual for bringing a sexual harassment complaint is prohibited by law and will lead to further disciplinary action. Nothing in this policy shall preclude a student from seeking redress through external legal proceedings.

### ***School Disciplinary Jurisdiction***

The School may exercise disciplinary jurisdiction over student conduct that occurs on or off school premises and which adversely affects the school community and/or the pursuit of school objectives. The conduct may involve a violation of local, state or federal law or violation of school community expectations and lifestyle expectations. A victim (reporting individual) may file complaints through local law enforcement and/or school process.

### ***Violation of Law and School Discipline***

School disciplinary proceedings may be instituted against a student charged with a violation of law that is also a violation of school rules without regard to pending civil litigation or criminal arrest and prosecution. School disciplinary proceedings may be carried out prior to, simultaneously with, or following any off-campus civil or criminal proceedings.

### ***Student Disciplinary Committee (SDC)***

The Student Disciplinary Committee (SDC) will hear cases involving violations of law, repeat violations referred by faculty or Directors, and violations of school rules that occur outside of the residence halls and respond appropriately within the boundaries of due process as outlined in the Student Handbook. All decisions of the committee are considered school responses to violations of community standards.

SDC Members:

- ☐ Campus Director
- ☐ Faculty/Staff Panel
- ☐ Students

The Student Disciplinary Committee is particularly concerned with community standard violations that have a continued negative impact on the school community.

Specific violations the Student Disciplinary Committee (SDC) will adjudicate, include, but are not limited to:

- ☐ Disruptive behavior (violent)
- ☐ Trespassing
- ☐ Theft
- ☐ Violations of social networking policy
- ☐ Alcohol possession and consumption
- ☐ Drug possession and/or use
- ☐ Hate Crimes
- ☐ Dating Violence
- ☐ Domestic Violence
- ☐ Stalking
- ☐ Sexual Assault, Sexual Harassment, Date Rape
- ☐ Any repeated violations of standards that negatively impact the school community

### ***Notification***

When an SDC hearing becomes necessary, the student accused of the community standard violation(s) shall receive a written notice via letter and email specifying the alleged violation(s) as well as the date, time, and place of the hearing. This notice will be given at least two (2) business days in advance of the hearing. If a student who has received appropriate notice fails to appear before the SDC, evidence in support of the violation may be presented and considered even if the student is not present. Not reading the email notice is not an excuse for not showing up to a hearing. All reasonable effort will be made to schedule the hearing at a time that does not conflict with a student's class schedule. SDC hearings take place as needed. However, the student is ultimately responsible for attending the hearing at the scheduled time; absences from class, lab practice, work, or other activities will not be excused.

Decisions can still be determined even if the student fails to show up to his/her hearing.

### ***Respondent and Reporting Individual Rights***

☐ To file student conduct charges against the accused: Anyone reporting an incident of sexual assault, domestic violence, dating violence, or stalking will have the opportunity to complete a Sexual Assault Incident Report and choose whether to have the School investigate the incident and bring student conduct proceedings against the accused. Conduct proceedings are governed by the procedures set forth in the Metropolitan Learning Institute Student Handbook as well as federal and New York State law, including the due process provisions of the United States and New York State Constitutions.

☐ Throughout conduct proceedings, the respondent and the reporting individual will have:

o The same opportunity to be accompanied by an advisor of his/her choice who may assist and advise the parties throughout the conduct process and any related hearings or

meetings. Participation of the advisor in any proceeding is governed by federal law and the Student Code of Conduct;

- o The right to a prompt response to any complaint and to have his/her complaint investigated and adjudicated in an impartial and thorough manner by individuals who receive annual training in conducting investigations of sexual violence, the effects of trauma, impartiality, the rights of the respondent, including the right to a presumption that the respondent is “not responsible” until a finding of responsibility is made, and other issues related to sexual assault, domestic violence, dating violence, and stalking.

- o The right to an investigation and process conducted in a manner that recognizes the legal and policy requirements of due process (including fairness, impartiality, and a meaningful opportunity to be heard) and is not conducted by individuals with a conflict of interest.

- o The right to receive advance written or electronic notice of the date, time, and location of any meeting or hearing he/she is required to or is eligible to attend. Accused individuals will also be told the factual allegations concerning the violation, a reference to the specific code of conduct provisions alleged to have been violated, and possible sanctions.

- o The right to have a conduct process run concurrently with a criminal justice investigation and proceeding, except for temporary delays as requested by external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than 10 days except when law enforcement specifically requests and justifies a longer delay.

- o The right to offer evidence during an investigation and to review available evidence in the case file relevant to the conduct case (or otherwise held by Metropolitan Learning Institute).

- o The right to present evidence and testimony at a hearing, where appropriate.

- o The right to a range of options for providing testimony via alternative arrangements, including telephone/videoconferencing or testifying with a room partition.

- o The right to exclude prior sexual history with persons other than the other party in the conduct process or their own mental health diagnosis or treatment from admittance in school disciplinary stage that determines responsibility. Past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the disciplinary stage that determines sanction.

- o The right to ask questions of the decision maker and via the decision maker indirectly request responses from other parties and any other witnesses present.

- o The right to make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.

- o The right to simultaneous (among the parties) written or electronic notification of the outcome of a conduct proceeding, including the decision, any sanctions, and the rationale for the decision and any sanctions.

- o The right to written or electronic notice about the sanction(s) that may be imposed on the accused based upon the outcome of the conduct proceeding. For students found responsible for sexual assault, the available sanctions are suspension with additional requirements and expulsion/dismissal.

- o Access to at least one level of appeal of a determination before a panel, which may include one or more students, that is fair and impartial and does not include individuals with a conflict of interest.
- o The right to have access to a full and fair record of a student conduct hearing, which shall be preserved and maintained for at least five years.
- o The right to choose whether to disclose or discuss the outcome of a conduct hearing.
- o The right to have all information which has been obtained during the course of the conduct or judicial process be protected from public release until the appeals panel makes a final determination unless otherwise required by law.
- ☐ To file student conduct charges against the accused. Anyone reporting an incidence of sexual assault, domestic violence, dating violence, or stalking will have the opportunity to complete a Sexual Assault Incident Report and choose whether to have the School investigate the incident and bring student conduct proceedings against the accused. Conduct proceedings are governed by the procedures set forth in the Metropolitan Learning Institute Student Handbook located on the MLI website as well as federal and New York State law, including the due process provisions of the United States and New York State Constitutions.

### ***SDC Hearing Procedure***

- ☐ The hearing shall be conducted in private. The SDC will admit relevant witnesses. Relevant witnesses are those persons who have firsthand knowledge of the behavior/incident in question (i.e. eye and ear witnesses). Both the respondent and the SDC have the right to call witnesses. Confidentiality will be maintained subject to legal requirements to disclose final hearing outcomes.
- ☐ In hearings involving more than one respondent, the chair of the SDC may permit the hearings to be conducted either separately or jointly.
- ☐ A member of the SDC designated by the chair shall present the evidence against the respondent.
- ☐ The respondent shall have the right to appear in person at the hearing, to be fully informed of and to challenge the charge(s) and evidence, address witnesses' statements, to present relevant witnesses and evidence on her or his behalf, and to remain silent.
- ☐ The respondent shall have the right to be assisted by an advisor of her or his choice. The advisor may attend the hearing but may not speak or otherwise participate.
- ☐ The members of the SDC may question the reporting individual, witnesses, and/or the accused.
- ☐ Formal rules of process, procedure, and/or technical rules of evidence, such as are applied in civil or criminal court, are not used in school disciplinary hearings.
- ☐ All procedural issues (e.g., testimony or evidence to be admitted or excluded, questioning of witnesses, conduct of the hearing, etc.) shall be subject to the final decision of the SDC.
- ☐ Dishonesty on the part of the respondent or evidence produced at the hearing that the respondent may have violated another school community lifestyle expectation may be treated as a separate disciplinary violation.
- ☐ After hearing all evidence and witnesses, the SDC shall determine whether the respondent is responsible for each disciplinary violation with which he or she is charged.



The determination shall be made on the basis of the preponderance of the credible evidence (defined as whether it is more likely than not that the respondent is responsible for the violation).

***Decision***

Within seven working days of the conclusion of the hearing, the respondent will be provided with a hard copy and an electronic copy via MLI e-mail of the SDC decision made. The decision will include a statement of outcomes, including findings of fact and any sanctions imposed, as well as the applicable appeal procedure. Please be advised that if a student is visiting the SDC repeatedly for the same or different violations of school policy, sanctions will increase from the time of the last infraction. In compliance with federal law, the reporting individual will be provided with a limited notice of outcome (containing the name of the student found responsible, the violation committed, and the sanction imposed) only in the case of a crime of violence or non-forcible sex offense.

**Employee Conduct Process**

Following the assessment, report, and recommendation of an Investigatory Committee, the administration will consider the presented recommendations and make decisions about employee disciplinary steps. Such disciplinary steps may include further education for an individual, further education for a work group, verbal discussion or counseling, written warning, suspension, demotion, transfer, reduction in salary, or termination.

**Standard of Evidence**

Since Title IX is a federal civil right, the appropriate standard of evidence is a “preponderance of the evidence.” This standard of evidence means that a hearing must determine whether a complaint of sex discrimination is “more likely than not” to have occurred or 51% likely to have occurred. This standard applies for all complaints of sex discrimination, including sexual harassment and violence, because Title IX outlines standards for school disciplinary processes — not criminal complaints, which require the highest standard of evidence, “beyond a reasonable doubt.”

**Transcript Notations**

For crimes of violence, including, but not limited to sexual violence, defined as crimes that meet reporting requirements pursuant to the federal Clery Act established in 20 U.S.C. 1092 (f)(1)(F)(i)(I)-(VIII), Metropolitan Learning Institute will make a notation on the transcripts of students found responsible after a conduct process that they were “suspended after finding a responsibility for a code of conduct violation” or “expelled after a finding of responsibility for a code of conduct violation.” For the respondent who withdraws from Metropolitan Learning Institute while conduct charges are pending, and declines to complete the disciplinary process, Metropolitan Learning Institute will make a notation on the transcript of such students that they “withdrew with conduct charges pending.”

Appeals seeking removal of a transcript notation for a suspension may be awarded, provided that such notation will not be removed prior to one year after conclusion of the suspension; notations for expulsion will not be removed. If a finding of responsibility is vacated for any reason, any such transcript notation will be removed.

### **Sanctions**

The following sanctions can be issued either by the Campus Director or the Student Disciplinary Committee following the conclusion of appropriate protocol.

Metropolitan Learning Institute's Community Lifestyle Standards are grounded in the principles of education and personal growth— all of which are central to the mission of the School. Discerning and applying appropriate sanctions, with a view toward holistic restoration, helps to hold students accountable to our community standards while promoting their individual growth and learning.

The list below represents a general framework of what sanctions a student could receive for various Code of Conduct violations.

The following variables will be considered in determining the range of sanctions and whether or not additional sanctions may be applied: a student's truthfulness throughout the student disciplinary process, prior disciplinary history, and the severity of the impact of the violation on the community. Students are expected to encourage each other in their adherence to the Code of Conduct; thus, a student who is present but not participating in the misconduct may or may not be held to the same level of sanctions as the participant.

The following sanction list is not exhaustive but serves as a general guide in the student disciplinary process:

- **Written Warning:** A written notice that the student has been found in violation of a specific regulation, and that repetition or continuation of this violation may result in further disciplinary action.
- **Probation (Levels I, II or III):** An official notification directing the student to comply with the terms of the probation levels while in general exhibiting good conduct by obeying School rules and regulations during a specified probation period. Further violations and/or failure to comply with sanctions will result in increased Probation Levels, with accompanying sanctions of a more stringent nature.
- **Probation Oversight:** A requirement on the student to meet with their Campus Director or the SDC to outline and commit to a Growth Contract. Students must complete the requirements outlined in the Growth Contract by the conclusion of their probationary period in order to avoid additional sanctions.
- **Counseling:** The SDC may decide that a student needs additional counseling and mandate it as a term within the Growth Contract. Upon initial visit to Counseling Service,



the student will again be asked to sign the Consent to Release and Obtain Information form (although information discussed with a counselor is confidential, this form is to ensure that the student is in compliance to the Growth Contract).

□ **Restitution:** Reimbursement by the student to the School or a member of the School community to cover the cost of damage to or misappropriation of property.

□ **On-Campus or Off-Campus Community Service Assignment:** The assignment of tasks or work appropriate to the violation, which will benefit all or part of the School community.

□ **Fines:** A monetary assessment that may vary because of the nature and/or frequency of the violation. The type of violation will determine whether the fine is to be paid in cash or placed on the student's tuition bill.

□ **Mandatory Alcohol/Drug Evaluation and/or Education:** Mandate student to obtain an Alcohol/Drug Evaluation and/or attend a mandatory Alcohol/Drug Education Workshop.

□ **No Trespass and No-Contact Orders:** In addition to No Trespass and No-Contact Orders that may be imposed pending an investigation and/or the resolution of an alleged Community Lifestyle Violation, the School may also impose a No Trespass and No Contact Orders as discipline upon the outcome of an SDC hearing.

□ **Parental Notification:** The School recognizes each student as a responsible adult. However, in certain cases, the School will require the student to notify his/her parent/guardian regarding his/her alleged participation in a Community Lifestyle Violation. The School also reserves the right to notify parents/guardian in situations where a student's health or safety may be in jeopardy.

□ **Dismissal/Permanent separation of the student from Metropolitan Learning Institute:** The student is dismissed from the School and is permanently ineligible to re-enroll at the School at any time in the future. When students are dismissed, expelled, or suspended for disciplinary reasons, there will be no refund of tuition or book fees for the term and all financial assistance for subsequent terms will be reviewed and are subject to cancellation.

□ **Suspension:** Temporary separation of the student from Metropolitan Learning Institute for a definite period of time, after which the student is eligible to return without re-applying through the Office of Admissions. If the student is absent for one or more academic years, he/she will be required re-apply for admission, as is the case for all students. Conditions for readmission may be specified.

□ **Interim Suspension:** In certain circumstances, the Campus Director or designee may impose an interim suspension prior to a disciplinary hearing. Interim suspension may be imposed for any of the following reasons:

- o To ensure the safety and well-being of members of the school community or preservation of school property
- o To ensure the student's own physical or emotional safety or well-being
- o If the student poses a definite threat of disruption of or interference with the normal operations of the School

□ **Expulsion:** Temporary separation of the student from Metropolitan Learning Institute for a definite period of time, but not less than two terms, after which the student must re-apply through the Office of Admissions and be granted acceptance before becoming

eligible for re-enrollment at the School. Conditions for readmission may be specified, but the student is not guaranteed readmission.

☐ **Persona Non Grata (PNG):** If a student, guest or visitor has exhibited behavior which has been deemed detrimental to the School residential community the student, guest or visitor will be no longer welcome or permitted to be present on any School owned property. Under no circumstance is a person who is declared Persona Non Grata permitted to be in or around the Metropolitan Learning Institute facilities. If the individual said to be violating this policy is found in or around any of the aforementioned restricted areas, they may be subject to arrest for trespassing.

☐ **Disciplinary Withdrawal:** Students may seek permission from the Campus Director to voluntarily withdraw from the School after involvement in a serious violation of school rules action is taken. A permanent record will be kept in school disciplinary files. Refunds are issued on a prorated basis (please see the catalog for full details). Conditions for readmission may include a personal interview, counseling, evidence of satisfactory academic work and community contribution at another educational institution, evidence of satisfactory employment, or other conditions.

**NOTE:** Students who have been suspended, withdrawn, or expelled for disciplinary reasons are not permitted on campus without prior approval of the Campus Director.

### **Student Records**

Disciplinary sanctions other than dismissal from the School shall not be made part of the student's permanent academic record (except in cases of crimes of violence that meet Clery Act reporting requirements - see Transcript Notification Policy), but shall be retained in the student's confidential record. Except in cases that result in suspension, expulsion, or dismissal, disciplinary actions shall be removed from a student's confidential record three years after graduation.

### **Appeals**

The School has implemented procedures for student appeals with the intent of assuring fundamental fairness. Students who believe they were not treated fairly in the disciplinary process can submit a written appeal to the Student Disciplinary Appeals Committee.

#### Student Disciplinary Appeals Committee Members:

- ☐ Campus Director
- ☐ Faculty Member
- ☐ Staff Member

The written appeal must specify grounds that would justify consideration. Written appeals must be submitted within 48 hours of the sanction and the student must leave campus while awaiting outcome of appeal. General dissatisfaction with the outcome of the decision or an appeal for mercy is not an appropriate basis for an appeal. The written appeal must specifically address at least one of the following criteria:

- ☐ Insufficient evidence to support the decision
- ☐ New evidence or facts not known to the student at the time of the hearing
- ☐ Procedural irregularity that undermined the student's ability to present a defense

□ Inappropriateness of the sanction for the violation of community lifestyle expectations  
Generally the appeals process does not require a hearing, nor does it require the Student Disciplinary Appeals Committee members to make personal contact with the student or the Student Disciplinary Committee.

The Student Disciplinary Appeals Committee may affirm, reverse, or modify the sanction. The Appeals Committee may also return the case to the SDC for further consideration. The decision of the Student Disciplinary Appeals Committee will be final and effective immediately. There is no appeal beyond the Student Disciplinary Appeals Committee.

Students will receive the final decision from the Student Disciplinary Appeals Committee within 48 hours of the Committee meeting. Students are expected to complete the sanctions as outlined by the SDC until they have received notice of granting or denial of appeal.

### **Authority of Campus Director**

In extraordinary circumstances, the Campus Director may initiate immediate disciplinary action without referring a student to a disciplinary hearing. Examples of such situations include potentially inflammatory or dangerous circumstances, violations occurring during breaks or vacations, situations involving off-campus parties, and situations where student or victim privacy rights are of particular concern. The Campus Director will take such action in consultation with appropriate school officials.

### **Options for Confidentially Disclosing Sexual Violence**

Metropolitan Learning Institute wants you to get the information and support you need regardless of whether you would like to move forward with a report of sexual assault, dating violence, domestic violence, or stalking to campus officials or to police. You may want to talk with someone about something you observed or experienced, even if you are not sure that the behavior constitutes sexual violence. A conversation where questions can be answered is far superior to keeping something to yourself. Confidentiality varies, and this document is aimed at helping you understand how confidentiality applies to different resources that may be available to you.

#### **□ In this Policy:**

- o Privileged and Confidential Resources
- o Non-Professional Counselors and Advocates
- o Privacy versus Confidentiality
- o Requesting Confidentiality: How the School Will Weigh the Request and Respond
- o Public Awareness/Advocacy Events
- o Anonymous Disclosure
- o Institutional Crime Reporting

### Privileged and Confidential Resources

□ Individuals who are *confidential* resources will not report crimes to law enforcement or other School staff without your permission, except for extreme circumstances, such as a health and/or safety emergency. At Metropolitan Learning Institute, this includes:

Campus Directors (any campus)

Main Campus:  
97-77 Queens Blvd., 9<sup>th</sup> Floor  
Rego Park, NY 11374  
Phone (718) 897-0482

Extension:  
550 59<sup>th</sup> Street  
Brooklyn, NY 11220  
Phone (718) 492-2120

or the Title IX Coordinator (718) 897-0482 ext. 13

□ Note that medical office and insurance billing practices may reveal information to the insurance policyholder, including medication and/or examinations paid for or administered. The New York State Office of Victim Services may be able to assist in compensating victims/survivors for health care and counseling services, including emergency compensation. More information may be found here:  
[https://www.ovs.ny.gov/files/ovs\\_rights\\_of\\_cv\\_booklet.pdf](https://www.ovs.ny.gov/files/ovs_rights_of_cv_booklet.pdf) or by calling 1-800-247-8035.

Options are explained here: <http://www.ovs.ny.gov/helpforcrimevictims.html>. Note that even individuals who can typically maintain confidentiality are subject to exceptions under the law, including when an individual is a threat to him/herself or others and the mandatory reporting of child abuse.

o Off-campus counselors and advocates. Crisis services offices will generally maintain confidentiality unless you request disclosure and sign a consent or waiver form. More information on an agency's policies on confidentiality may be obtained directly from the agency.

### □ Definitions

o Advisor: An individual chosen by the survivor/victim or the responding party to assist them the survivor/victim or the responding party through the School's investigation process. The Advisor may provide private counsel to the survivor/victim or responding party, but may not speak on behalf of the individual.

o Business Days: Official working days when the school is open for business; does not include weekends and School recognized holidays.

o Clery Act: A federal law, codified at 20 U.S.C. § 1092(f), that requires all schools and universities who receive federal funding to share information about crime in or around campus and efforts to improve campus safety.

o Clery Act Crimes of Violence: Clery Act Crimes are codified at 20 U.S.C. § 1092(f)(1)(F)(i)(I)-(VIII), and include murder; sex offenses, forcible or nonforcible; robbery; aggravated assault; burglary; motor vehicle theft; manslaughter; and, arson.

### ***Higher Education Act 129-B Definition of "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 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. When consent is withdrawn or cannot 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 a lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone 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.

o Force: The use of physical violence and/or imposing on someone physically to gain sexual access, including threats, intimidation, and/or coercion that overcome resistance or produce consent. Consent is not effective when forced.

o Impact Statement: A statement drafted by a member of the School community explaining to the School how the underlying incident(s) has impacted his or her life.

o Incapacitation: A state where an individual cannot make rational, reasonable decisions because he or she lacks the capacity to give knowing consent. Incapacitation may be caused by lack of consciousness, being asleep, being involuntarily restrained. 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.

o Title IX: A federal law, codified at 20 U.S.C. § 1681 et seq., that prohibits discrimination on the basis of sex in educational programs and activities. Specifically, the law provides that "no person in the United States shall, on the basis of sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under an educational program or activity receiving federal financial assistance."

o Title IX Coordinator: The Title IX Coordinator is the Metropolitan Learning Institute employee responsible for ensuring that the School is complying with all Title IX regulations and is charged with the primary responsibility for coordinating the School's Title IX compliance efforts.

### **Privacy versus Confidentiality: How Metropolitan Learning Institute Will Weigh the Request and Respond:**

If you disclose an incident to a Metropolitan Learning Institute employee who is responsible for responding to or reporting sexual violence or sexual harassment, but wish to maintain confidentiality or do not consent to the institution's request to initiate an

investigation, the Title IX Coordinator must weigh your request against our obligation to provide a safe, non-discriminatory environment for all members of our community, including you.

Even if Metropolitan Learning Institute offices and employees cannot guarantee *confidentiality*, they will maintain your *privacy* to the greatest extent possible. The information you provide to a non-confidential resource will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible under the law for tracking patterns and spotting systemic issues. Metropolitan Learning Institute will limit the disclosure as much as possible, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored. We will assist you with academic, housing, transportation, employment, and other reasonable and available accommodations regardless of your reporting choices. We will protect your privacy insofar as it does not impede the necessary accommodations you require. We also may take proactive steps, such as training or awareness efforts to combat sexual violence in a general way that does not identify you or the situation you disclosed.

We may seek consent from you prior to conducting an investigation. You may decline to consent to an investigation, and that determination will be honored unless the School's failure to act may result in harm to you or other members of the MLI community. Honoring your request may limit our ability to meaningfully investigate and pursue conduct action against an accused individual. If we determine that an investigation is required, we will notify you and take immediate action as necessary to protect and assist you.

When you disclose an incident to someone who is responsible for responding to or reporting sexual assault, domestic violence, dating violence, stalking, or sexual harassment, but wish to maintain confidentiality, Metropolitan Learning Institute will consider many factors to determine whether to proceed despite that request. These factors include, but are not limited to:

- ☐ Whether the accused has a history of violent behavior or is a repeat offender;
- ☐ Whether the incident represents escalation, such as a situation that previously involved sustained stalking; the increased risk that the accused will commit additional acts of violence;
- ☐ Whether the accused used a weapon or force;
- ☐ Whether the victim/survivor is a minor; and
- ☐ Whether we possess other means to obtain evidence such as security footage, and whether the report reveals a pattern of perpetration at a given location or by a particular group.

#### **Public Awareness/Advocacy Events:**

If you disclose a situation through a public awareness event including candlelight vigils, protests, or other public events, the School is not obligated to begin an investigation.



Metropolitan Learning Institute may use the information you provide to inform the need for additional education and prevention efforts.

## **Confidentiality and Non-Retaliation**

Publicly available records involving any incidents will protect the identity of all parties involved to the extent permissible by law by referring to parties as “reporting individual 1, reporting individual 2, etc.,” “Witness 1, Witness 2, etc.,” and “Accused 1, Accused 2, etc.”

All allegations of sexual harassment will be taken seriously and thoroughly investigated with appropriate support for and respect of the alleged victim. If it is determined that an intentionally false accusation of sexual harassment has been made, this too will be investigated thoroughly and treated seriously.

**The School prohibits retaliation against persons who in good faith report violations of this policy or cooperates in an investigation. The School also prohibits the filing of knowingly false or misleading reports and providing knowingly false or misleading information in an investigation. Discipline or other action can result from either of these acts in violation of this policy.**

## **Institutional Crime Reporting**

Reports of crimes occurring in Clery geographic locations will be included in the Metropolitan Learning Institute Annual Security and Fire Safety Report in an anonymous manner that neither identifies the specifics of the crime or the identity of the victim/survivor.

Metropolitan Learning Institute is obligated to issue timely warnings of Clery Act crimes occurring within relevant geography that represent a serious or continuing threat to students and employees (subject to exceptions when potentially compromising law enforcement efforts and when the warning itself could potentially identify the victim/survivor). A victim/survivor will never be identified in a timely warning.

The Family Educational Rights and Privacy Act (FERPA) allows institutions to share information with parents when (1) there is a health or safety emergency, or (2) when the student is a dependent on either parent’s prior year federal income tax return.

Generally, Metropolitan Learning Institute will not share information about a report of sexual violence with parents without the permission of the victim/survivor.

## **Policy for Alcohol and/or Drug Use Amnesty in Sexual Violence Cases**

The health and safety of every student at Metropolitan Learning Institute is of utmost importance. Metropolitan Learning Institute 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. Metropolitan Learning Institute strongly encourages students to report incidents of sexual violence to campus 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 Metropolitan Learning Institute officials or law enforcement will not be subject to MLI's code of conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

### **Onboarding and Ongoing Education Guide**

Metropolitan Learning Institute will continue to educate all new and current students as well as employees, using a variety of best practices aimed at educating the entire school community in a way that decreases violence and promotes a culture where sexual assault and acts of violence are not tolerated.

#### ***Students***

All incoming students and transfer students will, during the course of their onboarding to Metropolitan Learning Institute, receive information on the following topics, using a method and manner appropriate to the institutional culture of each campus. Class Captains were also added to the list in 2018. Metropolitan Learning Institute prohibits sexual harassment, including sexual violence, domestic violence, dating violence, stalking, other violence or threats of violence, and will offer resources to any victims/survivors of such violence while taking administrative and conduct action regarding any accused individual within the jurisdiction of the Institute.

- ☐ Relevant definitions including, but not limited to, the definitions of sexual violence and consent.
- ☐ Policies apply equally to all students regardless of sexual orientation, gender identity, or gender expression.
- ☐ The role of the Title IX Coordinator, Campus Security, and other relevant offices that address violence prevention and response.
- ☐ Awareness of violence, its impact on reporting individuals (victims/survivors) and their friends and family, and its long-term impact.
- ☐ The Students' Bill of Rights and Sexual Violence Response Policy, including:
  - o How to report sexual violence and other crimes confidentially, and/or to school officials, campus security, and local law enforcement.
  - o How to obtain services and support.
  - o Bystander Intervention and the importance of taking action, when one can safely do so, to prevent violence.
  - o The protections of the Policy for Alcohol and/or Drug Use Amnesty in Sexual and Interpersonal Violence Cases.
  - o Risk assessment and reduction including, but not limited to, steps that potential victims/ survivors and bystanders to violence can take to lower the incidence of sexual violence.
  - o Consequences and sanctions for individuals who commit these crimes.

The onboarding process is not limited to the single day of orientation, but recognizes that students enroll at different times at different Metropolitan Learning Institute campuses and gives campuses the flexibility to best educate students at a time and manner that can



most effectively bring these points to light. Metropolitan Learning Institute will conduct these trainings for all new students, whether first-term or transfer. Each campus shall use multiple methods to educate students about sexual violence prevention. Metropolitan Learning Institute will also share information on sexual violence prevention with parents of enrolling students via the institution's website.

Students at Metropolitan Learning Institute campuses shall be offered general and specialized training in sexual violence prevention. Each institution will conduct a campaign, compliant with the requirements of the Violence Against Women Act, to educate the student population.

### ***Employees***

The first action of prevention occurs prior to commencement of employment. Applicants are required to complete and sign an employment application acknowledging and indicating agreement with the Metropolitan Learning Institute's policies.

New employees receive the Employee Handbook and sign that they have read and will abide by the School policies including policies about prevention of harassment and discrimination.

In addition, special training is given to individuals who hold responsibility for insuring compliance with Title IX.

### **Legislative Definitions**

- ☐ "Institution" shall mean any school or university chartered by the regents or incorporated by special act of the legislature that maintains a campus in New York.
- ☐ "Title IX Coordinator" shall mean the Title IX Coordinator and/or his or her designee or designees.
- ☐ "Bystander" shall mean a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of rules or policies of an institution.
- ☐ "Code of Conduct" shall mean the written policies adopted by an Institution governing student behavior, rights, and responsibilities while such student is matriculated in the Institution.
- ☐ "Confidentiality" may be offered by an individual who is not required by law to report known incidents of sexual assault or other crimes to institution officials, in a manner consistent with State and Federal law, including but not limited to 20 U.S.C. 1092 (f) and 20 U.S.C. 1681 (a).
- ☐ "Privacy" may be offered by an individual when such individual is unable to offer confidentiality under law but shall still not disclose information learned from a reporting individual or bystander to a crime or incident more than necessary to comply with this and other applicable laws, including informing appropriate Metropolitan Learning Institute officials.
- ☐ "Accused" shall mean a person accused of a violation who has not yet entered an Institution's judicial or conduct process.

- “Respondent” shall mean a person accused of a violation who has entered an Institution’s judicial or conduct process.
- “Reporting Individual” shall encompass the terms victim, survivor, complainant, claimant, witness with victim status, and any other term used by an institution to reference an individual who brings forth a report of a violation.
- “Sexual activity” shall have the same meaning as “sexual act” and “sexual assault” as provided in 18 U.S.C. 46 ) and 18 U.S.C. 2246(3)
- “Domestic violence”, “dating violence”, “stalking” and “sexual assault” shall be defined by each Institution in its Code of Conduct in a manner consistent with applicable federal definitions.

### **Hate Crimes**

All students, staff, and faculty at Metropolitan Learning Institute have the right to live, work, study, and grow in an environment free from all forms of violence, whether physical or psychological. As kingdom people, members of the Metropolitan Learning Institute community are responsible to foster this environment by reporting any behavior in violation of this policy immediately to appropriate authorities, including the Campus Director’ Office and/or Human Resources.

Bias-related incidents are behaviors which constitute an expression of hostility, against the person or property of another because of perceived or actual personal characteristics, such as their race, religion, ethnicity, gender, sexual orientation, or disability. According to New York Penal Law Section 485 and the Clery Act, a person commits a hate crime when he or she commits a specified criminal offense and either:

- intentionally selects the person against whom the offense is committed or intended to be committed in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ethnicity, ancestry, gender or gender identity, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct, or
- intentionally commits the act or acts constituting the offense in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ethnicity, ancestry, gender or gender identity, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct.

Metropolitan Learning Institute is required to report statistical incidence of bias crimes on or around campus annually as part of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the Clery Act). Penalties for bias-related crimes are very serious and range from fines to imprisonment for lengthy periods, depending on the nature of the underlying criminal offense, the use of violence or previous conviction of the offender. Hate crimes are prohibited, in separate ways, by New York State law and Metropolitan Learning Institute policy. Thus, offenders may be prosecuted under New York State criminal statutes and subject to disciplinary action by Metropolitan Learning Institute. The School may pursue disciplinary action while criminal action is pending, or even if criminal justice authorities choose not to prosecute. In addition to any criminal

penalties, students, staff or faculty who commit bias crimes are also subject to School disciplinary procedures where a range of sanctions is available both up to and including suspension, expulsion or termination of employment.

In order to effectively handle and investigate incidents of bias related crimes and prevent future occurrences of such crimes, victims or witnesses of a hate crime are encouraged to immediately report incidents to the following offices depending on the severity and nature of the offense:

- ☐ Contact the local police precinct and file a police report
- ☐ Contact either the Campus Director (any campus)

**Main Campus:**  
97-77 Queens Blvd., 9<sup>th</sup> Floor  
Rego Park, NY 11374  
Phone (718) 897-0482

**Extension:**  
550 59<sup>th</sup> Street  
Brooklyn, NY 11220  
Phone (718) 492-2120

or the Campus Security Guard (Brooklyn) at (718) 492-2120 (Brooklyn) or Lefrak Security (RP) at (718) 896-7267.

- ☐ Employees:
  - o Contact Human Resources/Title IX Coordinator (718) 897-0482 ext. 13

Please remember that any evidence such as graffiti, e-mails, written notes or voice mail messages should be preserved.

Depending on the severity and offense committed the appropriate office in conjunction, when applicable, with local authorities will investigate and follow the appropriate school adjudication procedures.

## Clery Definitions

The following definitions are used for reporting crimes in compliance with The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 USC § 1092(f))

The following crime definitions are taken from the Federal Bureau of Investigation's Uniform Crime Reporting Handbook (UCR) as required by Clery Act regulations.

**Aggravated Assault:** An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. (It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used which could and probably would result in serious personal injury if the crime were successfully completed.)

**Arson:** Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

**Burglary:** The unlawful entry of a structure to commit a felony or a theft. For reporting purposes this definition includes:

unlawful entry with intent to commit a larceny or felony; breaking and entering with intent to commit a larceny;

housebreaking; safecracking; and all attempts to commit any of the aforementioned.

**Criminal Homicide - Manslaughter by Negligence:** The killing of another person through gross negligence.

**Criminal Homicide - Murder and Non-negligent Manslaughter:** The willful (non-negligent) killing of one human being by another. Note: Deaths caused by negligence, attempts to kill, suicides, accidental deaths and justifiable homicides are excluded.

**Drug Abuse Violations:** The violation of laws prohibiting the production, distribution, and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation, or importation of any controlled drug or narcotic substance.

Arrests for violations of State and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs.

**Liquor Law Violations:** The violation of State or local laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, or use of alcoholic beverages, not including driving under the influence and drunkenness.

**Motor Vehicle Theft:** The theft or attempted theft of a motor vehicle. (Classify as motor vehicle theft all cases where automobiles are taken by persons not having lawful access even though the vehicles are later abandoned—including joyriding.)

**Robbery:** The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

**Weapons – Carrying, Possessing, Etc.:** The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices, or other deadly weapons.

## **Hate Crimes**

**Race:** A preformed negative attitude toward a group of persons who possess common physical characteristics (e.g. color of skin, eyes, and/or hair; facial features, etc.) genetically transmitted by descent and heredity which distinguish them as a distinct division of humankind.

**Gender:** A preformed negative opinion or attitude toward a group of persons because those persons are male or female.

**Religion:** A preformed negative opinion or attitude toward a group of persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being (e.g., Catholics, Jews, Muslims, atheists).

**Sexual Orientation:** A preformed negative opinion or attitude toward a group of persons based on their sexual attraction toward, and responsiveness to, members of their own sex or members of the opposite sex (e.g., gays, lesbians, heterosexuals).

***Ethnicity/National Origin:*** A preformed negative opinion or attitude toward a group of persons of the same race or national origin who share common or similar traits, languages, customs and traditions (e.g., Arabs, Hispanics).

***Disability:*** A preformed negative opinion or attitude toward a group of persons based on their physical or mental impairments/challenges, whether such disability is temporary or permanent, congenital or acquired by heredity, accident, injury, advanced age or illness.

***Gender Identity:*** A preformed negative opinion or attitude toward a group of persons based on their gender identity and biological sex not being congruent; the individuals may identify as transsexual or as another transgender category.

**Additional Reportable Offenses if they are Hate Crimes:**

***Larceny-Theft (Except Motor Vehicle):*** The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. Attempted larcenies are included. Embezzlement, confidence games, forgery, worthless checks, etc., are excluded.

***Simple Assault:*** An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.

***Intimidation:*** To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

***Destruction/Damage/Vandalism of Property:*** To willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

***Weapon Law Violations:*** The violation of laws or ordinances dealing with weapon offenses, regulatory in nature, such as:  
manufacture, sale, or possession of deadly weapons; carrying deadly weapons, concealed or openly; furnishing deadly weapons to minors; aliens possessing deadly weapons; and all attempts to commit any of the aforementioned.

***Sex Offenses-Forcible***

Any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent.

***Forcible Rape***

The carnal knowledge of a person, forcibly and/or against the person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity (or because of his/her youth). This offense includes the forcible rape of both males and females.

***Forcible Sodomy***

Oral or anal sexual intercourse with another person, forcibly and/or against that person's will; or not forcibly against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

***Sexual Assault with an Object***

The use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity. An object or instrument is anything used by the offender other than the offender's genitalia.

***Forcible Fondling***

The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

***Sex Offenses-Nonforcible***

Incidents of unlawful, nonforcible sexual intercourse.

***Incest***

Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

***Statutory Rape***

Nonforcible sexual intercourse with a person who is under the statutory age of consent.

***Rape***

The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

Hierarchy Rule: A requirement in the FBI's UCR program that, for purposes of reporting crimes in that system, when more than one criminal offense was committed during a single incident, only the most serious offense be counted.

**Newly Added Reporting categories: (Campus Sexual Violence Elimination Act (Campus SaVE), March 7, 2013).**

***Domestic Violence:***

- i. A felony or misdemeanor crime of violence committed—
  - a) By a current or former spouse or intimate partner of the victim;
  - b) By a person with whom the victim shares a child in common;
  - c) By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
  - d) By a person similarly situated to a spouse of the victim under the domestic or 35 family violence laws of the jurisdiction in which the crime of violence occurred; or
  - e) By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- ii. For the purposes of complying with the requirements of § 668.46 and § 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

***Dating Violence:*** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.



- i. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- ii. For the purposes of this definition—
  - a) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
  - b) Dating violence does not include acts covered under the definition of domestic violence.
- iii. For the purposes of complying with the requirements of § 668.46 and § 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

### ***Stalking***

- i. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—
  - A. Fear for the person's safety or the safety of others; or
  - B. Suffer substantial emotional distress.
- ii. For the purposes of this definition—
  - A. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveys, threatens, or communicates to or about a person, or interferes with a person's property.
  - B. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

### **Other Clery Act Definitions**

***Business Day:*** Monday through Friday, excluding any day when the institution is closed.

***Bystander Intervention:*** Safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking.

### ***Campus***

- i. Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, and
- ii. Any building or property that is within or reasonably contiguous to the area identified in paragraph (i) of this definition, that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).

### ***Campus Security Authority***

- i. A campus police department or a campus security department of an institution.
- ii. Any individual or individuals who have responsibility for campus security but who do not constitute a campus police department or a campus security department under

paragraph (i) of this definition, such as an individual who is responsible for monitoring entrance into institutional property.

iii. Any individual or organization specified in an institution's statement of campus security policy as an individual or organization to which students and employees should report criminal offenses.

iv. An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings.

### ***Clery Geography***

***On-Campus-*** Defined as: (1) Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of or in a manner related to the institution's educational purposes, including residence halls; and (2) Any building or property that is within or reasonably contiguous to the area identified in paragraph (1), that is owned by the institution but controlled by another person, (2), that is frequently used by students and supports institutional purposes (such as a food or retail vendor).

***Non-Campus Building Or Property-*** Defined as: (1) Any building or property owned or controlled by a student organization that is officially recognized by the institution; or (2) Any building or property owned or controlled by an institution that is used in direct support of or in relation to the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.

***Public Property*** - Defined as: All public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus or immediately adjacent to and accessible from the campus.

o The Metropolitan Learning Institute Crime statistics do not include crimes that occur in privately owned homes or businesses within or adjacent to the campus boundaries.

***Federal Bureau of Investigation's (FBI) Uniform Crime Reporting (UCR) Program:*** A nationwide, cooperative statistical effort in which city, university and school, county, State, Tribal, and federal law enforcement agencies voluntarily report data on crimes brought to their attention. The UCR program also serves as the basis for the definitions of crimes in Appendix A to this subpart and the requirements for classifying crimes in this subpart.

***Pastoral Counselor:*** A person who is associated with a religious order or denomination is recognized by that religious order or denomination as someone who provides confidential counseling, and is functioning within the scope of that recognition as a pastoral counselor.

***Professional Counselor:*** A person whose official responsibilities include providing mental health counseling to members of the institution's community and who is functioning within the scope of the counselor's license or certification.

***Programs to Prevent Dating Violence, Domestic Violence, Sexual Assault, and Stalking***



- i. Comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault, and stalking that—
  - A. Are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research or assessed for value, effectiveness, or outcome; and
  - B. Consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels.
- ii. Programs to prevent dating violence, domestic violence, sexual assault, and stalking include both primary prevention and awareness programs directed at incoming students and new employees and ongoing prevention and awareness campaigns directed at students and employees, as defined in paragraph (j)(2) of § 668.46.

***Referred for Campus Disciplinary Action:*** The referral of any person to any campus official who initiates a disciplinary action of which a record is kept and which may result in the imposition of a sanction.

***Sexual Assault:*** An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's UCR program and included in Appendix A of Subpart D of § 668.

- C. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- iii. For the purposes of complying with the requirements of this section and section 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

***Test:*** Regularly scheduled drills, exercises, and appropriate follow-through activities, designed for assessment and evaluation of emergency plans and capabilities.

#### **Definitions from the New York State Education Law Article 129-B**

***Bystander:*** A person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of rules or policies of an institution.

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

***Privacy:*** May be offered by an individual when such individual is unable to offer confidentiality under the law but shall still not disclose information learned from a reporting individual or bystander to a crime or incident more than necessary to comply with this and other applicable laws, including informing appropriate institution officials. Institutions may substitute another relevant term having the same meaning, as appropriate to the policies of the institution.

***Accused:*** A person accused of a violation who has not yet entered an institution's judicial or conduct process.

**Respondent:** A person accused of a violation who has entered an institution's judicial or conduct process.

**Reporting Individual:** Shall encompass the terms victim, survivor, complainant, witness with victim status, and any other term used by an institution to reference an individual who brings forth a report of a violation.

## New York State Penal Law Definitions

### S 120.40 Definitions.

For purposes of sections 120.45, 120.50, 120.55 and 120.60 of this article:

1. "**Kidnapping**" shall mean a kidnapping crime defined in article one hundred thirty-five of this chapter.
2. "**Unlawful imprisonment**" shall mean an unlawful imprisonment felony crime defined in article one hundred thirty five of this chapter.
3. "**Sex offense**" shall mean a felony defined in article one hundred thirty of this chapter, sexual misconduct, as defined in section 130.20 of this chapter, sexual abuse in the third degree as defined in section 130.55 of this chapter or sexual abuse in the second degree as defined in section 130.60 of this chapter.
4. "**Immediate family**" means the spouse, former spouse, parent, child, sibling, or any other person who regularly resides or has regularly resided in the household of a person.
5. "**Specified predicate crime**" means:
  - a. a violent felony offense;
  - b. a crime defined in section 130.20, 130.25, 130.30, 130.40, 130.45, 130.55, 130.60, 130.70 or 255.25, 255.26 or 255.27;
  - c. assault in the third degree, as defined in section 120.00; menacing in the first degree, as defined in section 120.13; menacing in the second degree, as defined in section 120.14; coercion in the first degree, as defined in section 135.65; coercion in the second degree, as defined in section 135.60; aggravated harassment in the second degree, as defined in section 240.30; harassment in the first degree, as defined in section 240.25; menacing in the third degree, as defined in section 120.15; criminal mischief in the third degree, as defined in section 145.05; criminal mischief in the second degree, as defined in section 145.10, criminal mischief in the first degree, as defined in section 145.12; criminal tampering in the first degree, as defined in section 145.20; arson in the fourth degree, as defined in section 150.05; arson in the third degree, as defined in section 150.10; criminal contempt in the first degree, as defined in section 215.51; endangering the welfare of a child, as defined in section 260.10; or
  - d. stalking in the fourth degree, as defined in section 120.45; stalking in the third degree, as defined in section 120.50; stalking in the second degree, as defined in section 120.55;

e. an offense in any other jurisdiction which includes all of the essential elements of any such crime for which a sentence to a term of imprisonment in excess of one year or a sentence of death was authorized and is authorized in this state irrespective of whether such sentence was imposed.

**S 120.45 Stalking in the fourth degree.** (NB Effective October 21, 2014)

A person is guilty of stalking in the fourth degree when he or she intentionally, and for no legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct:

1. is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person's immediate family or a third party with whom such person is acquainted; or
2. causes material harm to the mental or emotional health of such person, where such conduct consists of following, telephoning or initiating communication or contact with such person, a member of such person's immediate family or a third party with whom such person is acquainted, and the actor was previously clearly informed to cease that conduct; or
3. is likely to cause such person to reasonably fear that his or her employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person's place of employment or business, and the actor was previously clearly informed to cease that conduct.

For the purposes of subdivision two of this section, "following" shall include the unauthorized tracking of such person's movements or location through the use of a global positioning system or other device.

Stalking in the fourth degree is a class B misdemeanor.

**S 120.50 Stalking in the third degree.**

A person is guilty of stalking in the third degree when he or she:

1. Commits the crime of stalking in the fourth degree in violation of section 120.45 of this article against three or more persons, in three or more separate transactions, for which the actor has not been previously convicted; or
2. Commits the crime of stalking in the fourth degree in violation of section 120.45 of this article against any person, and has previously been convicted, within the preceding ten years of a specified predicate crime, as defined in subdivision five of section 120.40 of this article, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or
3. With intent to harass, annoy or alarm a specific person, intentionally engages in a course of conduct directed at such person which is likely to cause such person to reasonably fear physical injury or serious physical injury, the commission of a sex offense against, or the kidnapping, unlawful imprisonment or death of such person or a member of such person's immediate family; or
4. Commits the crime of stalking in the fourth degree and has previously been convicted within the preceding ten years of stalking in the fourth degree.

Stalking in the third degree is a class A misdemeanor.

**S 120.55 Stalking in the second degree.**

A person is guilty of stalking in the second degree when he or she:

1. Commits the crime of stalking in the third degree as defined in subdivision three of section 120.50 of this article and in the course of and in furtherance of the commission of such offense: (i) displays, or possesses and threatens the use of, a firearm, pistol, revolver, rifle, shotgun, machine gun, electronic dart gun, electronic stun gun, cane sword, billy, blackjack, bludgeon, plastic knuckles, metal knuckles, chuka stick, sand bag, sandclub, slingshot, slungshot, shiruken, "Kung Fu Star", dagger, dangerous knife, dirk, razor, stiletto, imitation pistol, dangerous instrument, deadly instrument or deadly weapon; or (ii) displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or
2. Commits the crime of stalking in the third degree in violation of subdivision three of section 120.50 of this article against any person, and has previously been convicted, within the preceding five years, of a specified predicate crime as defined in subdivision five of section 120.40 of this article, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or
3. Commits the crime of stalking in the fourth degree and has previously been convicted of stalking in the third degree as defined in subdivision four of section 120.50 of this article against any person; or
4. Being twenty-one years of age or older, repeatedly follows a person under the age of fourteen or engages in a course of conduct or repeatedly commits acts over a period of time intentionally placing or attempting to place such person who is under the age of fourteen in reasonable fear of physical injury, serious physical injury or death; or
5. Commits the crime of stalking in the third degree, as defined in subdivision three of section 120.50 of this article, against more persons, in ten or more separate transactions, for which the actor has not been previously convicted.

Stalking in the second degree is a class E felony.

**S 120.60 Stalking in the first degree.**

A person is guilty of stalking in the first degree when he or she commits the crime of stalking in the third degree as defined in subdivision three of section 120.50 or stalking in the second degree as defined in section 120.55 of this article and, in the course and furtherance thereof, he or she:

1. intentionally or recklessly causes physical injury to the victim of such crime; or
2. commits a class A misdemeanor defined in article one hundred thirty of this chapter, or a class E felony defined in section 130.25, 130.40 or 130.85 of this chapter, or a class D felony defined in section 130.30 or 130.45 of this chapter.

Stalking in the first degree is a class D felony.

**S 120.70 Luring a child.**

1. A person is guilty of luring a child when he or she lures a child into a motor vehicle, aircraft, watercraft, isolated area, building, or part thereof, for the purpose of committing

against such child any of the following offenses: an offense as defined in section 70.02 of this chapter; an offense as defined in section 125.25 or 125.27 of this chapter; a felony offense that is a violation of article one hundred thirty of this chapter; an offense as defined in section 135.25 of this chapter; an offense as defined in sections 230.30, 230.33 or 230.34 of this chapter; an offense as defined in sections 255.25, 255.26, or 255.27 of this chapter; or an offense as defined in sections 263.05, 263.10, or 263.15 of this chapter. For purposes of this subdivision "child" means a person less than seventeen years of age. Nothing in this section shall be deemed to preclude, if the evidence warrants, a conviction for the commission or attempted commission of any crime, including but not limited to a crime defined in article one hundred thirty-five of this chapter.

2. Luring a child is a class E felony, provided, however, that if the underlying offense the actor intended to commit against such child constituted a class A or a class B felony, then the offense of luring a child in violation of this section shall be deemed respectively, a class C felony or class D felony.

### **S 130.00 Sex offenses; definitions of terms.**

The following definitions are applicable to this article:

1. "Sexual intercourse" has its ordinary meaning and occurs upon any penetration, however slight.
2. (a) "Oral sexual conduct" means conduct between persons consisting of contact between the mouth and the penis, the mouth and the anus, or the mouth and the vulva or vagina. (b) "Anal sexual conduct" means conduct between persons consisting of contact between the penis and anus.
3. "Sexual contact" means any touching of the sexual or other intimate parts of a person for the purpose of gratifying sexual desire of either party. It includes the touching of the actor by the victim, as well as the touching of the victim by the actor, whether directly or through clothing, as well as the emission of ejaculate by the actor upon any part of the victim, clothed or unclothed.
4. For the purposes of this article "married" means the existence of the relationship between the actor and the victim as spouses, which is recognized by law at the time the actor commits an offense proscribed by this article against the victim.
5. "Mentally disabled" means that a person suffers from a mental disease or defect which renders him or her incapable of appraising the nature of his or her conduct.
6. "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his conduct owing to the influence of a narcotic or intoxicating substance administered to him without his consent, or to any other act committed upon him without his consent.
7. "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act.
8. "Forcible compulsion" means to compel by either:
  - a. use of physical force; or
  - b. a threat, express or implied, which places a person in fear of immediate death or physical injury to himself, herself or another person, or in fear that he, she or another person will immediately be kidnapped.

9. "Foreign object" means any instrument or article which, when inserted in the vagina, urethra, penis, rectum or anus, is capable of causing physical injury.
10. "Sexual conduct" means sexual intercourse, oral sexual conduct, anal sexual conduct, aggravated sexual contact, or sexual contact.
11. "Aggravated sexual contact" means inserting, other than for a valid medical purpose, a foreign object in the vagina, urethra, penis, rectum or anus of a child, thereby causing physical injury to such child.
12. "Health care provider" means any person who is, or is required to be, licensed or registered or holds himself or herself out to be licensed or registered, or provides services as if he or she were licensed or registered in the profession of medicine, chiropractic, dentistry or podiatry under any of the following: article one hundred thirty-one, one hundred thirty-two, one hundred thirty-three, or one hundred forty-one of the education law.
13. "Mental health care provider" shall mean a licensed physician, licensed psychologist, registered professional nurse, licensed clinical social worker or a licensed master social worker under the supervision of a physician, psychologist or licensed clinical social worker.

#### **Lack of Consent (S 130.05)**

Whether or not specifically stated, it is an element of every offense defined in this article that the sexual act was committed without consent of the victim.

*(Eff. 11/1/03, Ch. 264.L. 2003)*

1. Lack of consent results from:
  - a. Forcible compulsion; or
  - b. Incapacity to consent; or
  - c. Where the offense charged is sexual abuse of forcible touching, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct; or *(Eff. 11/1/03, Ch. 264.L. 2003)*
  - d. Where the offense charged is rape in the third degree as defined in subdivision three of section 130.25, or criminal sexual act in the third degree as defined in subdivision three of section 130.40, in addition to forcible compulsion, circumstances under which, at the time of the act of intercourse or deviate sexual intercourse, the victim clearly expressed that he or she did not consent to engage in such act, and a reasonable person in the actor's situation would have understood such person's words and acts as an expression of lack of consent to such act under all the circumstances. *(Eff. 11/1/03, Ch. 264.L. 2003)*
2. A person is deemed incapable of consent when he or she is:
  - a. less than seventeen years old; or
  - b. mentally disabled; or
  - c. mentally incapacitated; or
  - d. physically helpless; or
  - e. committed to the care and custody of the state department of correctional services or a hospital, as such term is defined in subdivision two of section four hundred of the correction law, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such department or hospital. For purposes of this paragraph, "employee" means i) an employee



of the state department of correctional services who performs professional duties in a state correctional facility consisting of providing custody, medical or mental health services, counseling services, educational programs, or vocational training for inmates; (ii) an employee of the division of parole who performs professional duties in a state correctional facility and who provides institutional parole services pursuant to section two hundred fifty-nine-e of the executive law; or (iii) an employee of the office of mental health who performs professional duties in a state correctional facility or hospital, as such term is defined in subdivision two of section four hundred of the correction law, consisting of providing custody, or medical or mental health services for such inmates; or f. committed to the care and custody of a local correctional facility, as such term is defined in subdivision two of section forty of the correction law, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such facility.

For purposes of this paragraph, "employee" means an employee of the local correctional facility where the person is committed who performs professional duties consisting of providing custody, medical or mental health services, counseling services, educational services, or vocational training for inmates; or

g. committed to or placed with the office of children and family services and in residential care, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to or placed with such office of children and family services and in residential care.

For purposes of this paragraph, "employee" means an employee of the office of children and family services or of a residential facility who performs duties consisting of providing custody, medical or mental health services, counseling services, educational services, or vocational training for persons committed to or placed with the office of children and family services and in residential care; or

h. a client or patient and the actor is a health care provider or mental health care provider charged with rape in the third degree as defined in section 130.25, criminal sexual act in the third degree as defined in section 130.40, aggravated sexual abuse in the fourth degree as defined in section 130.65-a, or sexual abuse in the third degree as defined in section 130.55, and the act of sexual conduct occurs during a treatment session, consultation, interview, or examination. (*Eff. 11/1/03, Ch. 264, L. 2003*)

i. a resident or inpatient of a residential facility operated, licensed or certified by (i) the office of mental health; (ii) the office for people with developmental disabilities; or (iii) the office of alcoholism and substance abuse services, and the actor is an employee of the facility not married to such resident or inpatient. For purposes of this paragraph, "employee" means either: an employee of the agency operating the residential facility, who knows or reasonably should know that such person is a resident or inpatient of such facility and who provides direct care services, case management services, medical or other clinical services, habilitative services or direct supervision of the residents in the facility in which the resident resides; or an officer or other employee, consultant, contractor or volunteer of the residential facility, who knows or reasonably should know that the person is a resident of such facility and who is in direct contact with residents or inpatients; provided, however, that the provisions of this paragraph shall only apply to a consultant, contractor or volunteer providing services pursuant to a contractual

arrangement with the agency operating the residential facility or, in the case of a volunteer, a written agreement with such facility, provided that the person received written notice concerning the provisions of this paragraph; provided further, however, "employee" shall not include a person with a developmental disability who is or was receiving services and is also an employee of a service provider and who has sexual contact with another service recipient who is a consenting adult.

## **New York State Penal Law Definitions (Articles S 120.40 – S 130.96)**

### **S 130.10 Sex offenses; limitation; defenses.**

1. In any prosecution under this article in which the victim's lack of consent is based solely upon his or her incapacity to consent because he or she was mentally disabled, mentally incapacitated or physically helpless, it is an affirmative defense that the defendant, at the time he or she engaged in the conduct constituting the offense, did not know of the facts or conditions responsible for such incapacity to consent.
2. Conduct performed for a valid medical or mental health care purpose shall not constitute a violation of any section of this article in which incapacity to consent is based on the circumstances set forth in paragraph (h) of subdivision three of section 130.05 of this article.
3. In any prosecution for the crime of rape in the third degree as defined in section 130.25, criminal sexual act in the third degree as defined in section 130.40, aggravated sexual abuse in the fourth degree as defined in section 130.65-a, or sexual abuse in the third degree as defined in section 130.55 in which incapacity to consent is based on the circumstances set forth in paragraph (h) of subdivision three of section 130.05 of this article it shall be an affirmative defense that the client or patient consented to such conduct charged after having been expressly advised by the health care or mental health care provider that such conduct was not performed for a valid medical purpose.
4. In any prosecution under this article in which the victim's lack of consent is based solely on his or her incapacity to consent because he or she was less than seventeen years old, mentally disabled, a client or patient and the actor is a health care provider, or committed to the care and custody or supervision of the state department of corrections and community supervision or a hospital and the actor is an employee, it shall be a defense that the defendant was married to the victim as defined in subdivision four of section 130.00 of this article.

### **S 130.16 Sex offenses; corroboration.**

A person shall not be convicted of any offense defined in this article of which lack of consent is an element but results solely from incapacity to consent because of the victim's mental defect, or mental incapacity, or an attempt to commit the same, solely on the testimony of the victim, unsupported by other evidence tending to:

- (a) Establish that an attempt was made to engage the victim in sexual intercourse, oral sexual conduct, anal sexual conduct, or sexual contact, as the case may be, at the time of the occurrence; and
- (b) Connect the defendant with the commission of the offense or attempted offense.

### **S 130.20 Sexual misconduct.**

A person is guilty of sexual misconduct when:



1. He or she engages in sexual intercourse with another person without such person's consent; or
2. He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent;
- or
3. He or she engages in sexual conduct with an animal or a dead human body.

Sexual misconduct is a class A misdemeanor.

**S 130.25 Rape in the third degree.**

A person is guilty of rape in the third degree when:

1. He or she engages in sexual intercourse with another person who is incapable of consent by reason of some factor other than being less than seventeen years old;
2. Being twenty-one years old or more, he or she engages in sexual intercourse with another person less than seventeen years old; or
3. He or she engages in sexual intercourse with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent.

Rape in the third degree is a class E felony.

**S 130.30 Rape in the second degree.**

A person is guilty of rape in the second degree when:

1. being eighteen years old or more, he or she engages in sexual intercourse with another person less than fifteen years old; or
2. he or she engages in sexual intercourse with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated.

It shall be an affirmative defense to the crime of rape in the second degree as defined in subdivision one of this section that the defendant was less than four years older than the victim at the time of the act.

Rape in the second degree is a class D felony.

**S 130.35 Rape in the first degree.**

A person is guilty of rape in the first degree when he or she engages in sexual intercourse with another person:

1. By forcible compulsion; or
2. Who is incapable of consent by reason of being physically helpless; or
3. Who is less than eleven years old; or
4. Who is less than thirteen years old and the actor is eighteen years old or more

Rape in the first degree is a class B felony.

**S 130.40 Criminal sexual act in the third degree.**

A person is guilty of criminal sexual act in the third degree when:

1. He or she engages in oral sexual conduct or anal sexual conduct with a person who is incapable of consent by reason of some factor other than being less than seventeen years old;
2. Being twenty-one years old or more, he or she engages in oral sexual conduct or anal sexual conduct with a person less than seventeen years old; or
3. He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent where such lack of consent is by reason of some factor

other than incapacity to consent. Criminal sexual act in the third degree is a class E felony.

**S 130.45 Criminal sexual act in the second degree.**

A person is guilty of criminal sexual act in the second degree when:

1. being eighteen years old or more, he or she engages in oral sexual conduct or anal sexual conduct with another person less than fifteen years old; or
2. he or she engages in oral sexual conduct or anal sexual conduct with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated.

It shall be an affirmative defense to the crime of criminal sexual act in the second degree as defined in subdivision one of this section that the defendant was less than four years older than the victim at the time of the act.

Criminal sexual act in the second degree is a class D felony.

**S 130.50 Criminal sexual act in the first degree.**

A person is guilty of criminal sexual act in the first degree when he or she engages in oral sexual conduct or anal sexual conduct with another person:

1. By forcible compulsion; or
2. Who is incapable of consent by reason of being physically helpless; or
3. Who is less than eleven years old; or
4. Who is less than thirteen years old and the actor is eighteen years old or more.

Criminal sexual act in the first degree is a class B felony.

**S 130.52 Forcible touching.**

A person is guilty of forcible touching when such person intentionally, and for no legitimate purpose, forcibly touches the sexual or other intimate parts of another person for the purpose of degrading or abusing such person; or for the purpose of gratifying the actor's sexual desire. For the purposes of this section, forcible touching includes squeezing, grabbing or pinching. Forcible touching is a class A misdemeanor.

**S 130.53 Persistent sexual abuse.** (NB Effective until November 1, 2014)

A person is guilty of persistent sexual abuse when he or she commits the crime of forcible touching, as defined in section 130.52 of this article, sexual abuse in the third degree, as defined in section 130.55 of this article, or sexual abuse in the second degree, as defined in section 130.60 of this article, and, within the previous ten year period, has been convicted two or more times, in separate criminal transactions for which sentence was imposed on separate occasions, of forcible touching, as defined in section 130.52 of this article, sexual abuse in the third degree as defined in section 130.55 of this article, sexual abuse in the second degree, as defined in section 130.60 of this article, or any offense defined in this article, of which the commission or attempted commission thereof is a felony. Persistent sexual abuse is a class E felony.

**S 130.53 Persistent sexual abuse.** (NB Effective November 1, 2014)

A person is guilty of persistent sexual abuse when he or she commits the crime of forcible touching, as defined in section 130.52 of this article, sexual abuse in the third degree, as defined in section 130.55 of this article, or sexual abuse in the second degree, as defined in section 130.60 of this article, and, within the previous ten year period, excluding any time during which such person was incarcerated for any reason, has been convicted two or more times, in separate criminal transactions for which

sentence was imposed on separate occasions, of forcible touching, as defined in section 130.52 of this article, sexual abuse in the third degree as defined in section 130.55 of this article, sexual abuse in the second degree, as defined in section 130.60 of this article, or any offense defined in this article, of which the commission or attempted commission thereof is a felony. Persistent sexual abuse is a class E felony.

**S 130.55 Sexual abuse in the third degree.**

A person is guilty of sexual abuse in the third degree when he or she subjects another person to sexual contact without the latter's consent; except that in any prosecution under this section, it is an affirmative defense that (a) such other person's lack of consent was due solely to incapacity to consent by reason of being less than seventeen years old, and (b) such other person was more than fourteen years old, and (c) the defendant was less than five years older than such other person. Sexual abuse in the third degree is a class B misdemeanor.

**S 130.60 Sexual abuse in the second degree.**

A person is guilty of sexual abuse in the second degree when he or she subjects another person to sexual contact and when such other person is:

1. Incapable of consent by reason of some factor other than being less than seventeen years old; or
2. Less than fourteen years old.

Sexual abuse in the second degree is a class A misdemeanor.

**S 130.65 Sexual abuse in the first degree.**

A person is guilty of sexual abuse in the first degree when he or she subjects another person to sexual contact:

1. By forcible compulsion; or
2. When the other person is incapable of consent by reason of being physically helpless; or
3. When the other person is less than eleven years old; or
4. When the other person is less than thirteen years old and the actor is twenty-one years old or older.

Sexual abuse in the first degree is a class D felony.

**S 130.65-a Aggravated sexual abuse in the fourth degree.**

1, A person is guilty of aggravated sexual abuse in the fourth degree when:

(a) He or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person and the other person is incapable of consent by reason of some factor other than being less than seventeen years old;

or

(b) He or she inserts a finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person and such person is incapable of consent by reason of some factor other than being less than seventeen years old.

2. Conduct performed for a valid medical purpose does not violate the provisions of this section.

Aggravated sexual abuse in the fourth degree is a class E felony.

**S 130.66 Aggravated sexual abuse in the third degree.**

Aggravated sexual abuse in the third degree is a class D felony.

**S 130.67 Aggravated sexual abuse in the second degree.**

1. A person is guilty of aggravated sexual abuse in the second degree when he or she inserts a finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person:

- (a) By forcible compulsion; or
- (b) When the other person is incapable of consent by reason of being physically helpless; or
- (c) When the other person is less than eleven years old.

2. Conduct performed for a valid medical purpose does not violate the provisions of this section.

Aggravated sexual abuse in the second degree is a class C felony.

**S 130.70 Aggravated sexual abuse in the first degree.**

1. A person is guilty of aggravated sexual abuse in the first degree when he or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person:

- (a) By forcible compulsion; or
- (b) When the other person is incapable of consent by reason of being physically helpless; or
- (c) When the other person is less than eleven years old.

2. Conduct performed for a valid medical purpose does not violate the provisions of this section.

Aggravated sexual abuse in the first degree is a class B felony.

**S 130.75 Course of sexual conduct against a child in the first degree.**

1. A person is guilty of course of sexual conduct against a child in the first degree when, over a period of time not less than three months in duration:

- (a) he or she engages in two or more acts of sexual conduct, which includes at least one act of sexual intercourse, oral sexual conduct, anal sexual conduct or aggravated sexual contact, with a child less than eleven years old; or
- (b) he or she, being eighteen years old or more, engages in two or more acts of sexual conduct, which include at least one act of sexual intercourse, oral sexual conduct, anal sexual conduct or aggravated sexual contact, with a child less than thirteen years old.

2. A person may not be subsequently prosecuted for any other sexual offense involving the same victim unless the other charged offense occurred outside the time period charged under this section.

Course of sexual conduct against a child in the first degree is a class B felony.

**S 130.80 Course of sexual conduct against a child in the second degree.**

1. A person is guilty of course of sexual conduct against a child in the second degree when, over a period of time not less than three months in duration:

- (a) he or she engages in two or more acts of sexual conduct with a child less than eleven years old; or
- (b) he or she, being eighteen years old or more, engages in two or more acts of sexual conduct with a child less than thirteen years old.

2. A person may not be subsequently prosecuted for any other sexual offense involving the same victim unless the other charged offense occurred outside the time period charged under this section.

Course of sexual conduct against a child in the second degree is a class D felony.

**S 130.85 Female genital mutilation.**

1. A person is guilty of female genital mutilation when:

- (a) a person knowingly circumcises, excises, or infibulates the whole or any part of the labia majora or labia minora or clitoris of another person who has not reached eighteen years of age; or
- (b) being a parent, guardian or other person legally responsible and charged with the care or custody of a child less than eighteen years old, he or she knowingly consents to the circumcision, excision or infibulation of whole or part of such child's labia majora or labia minora or clitoris.

2. Such circumcision, excision, or infibulation is not a violation of this section if such act is:

- (a) necessary to the health of the person on whom it is performed, and is performed by a person licensed in the place of its performance as a medical practitioner; or
- (b) performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, midwife, or person in training to become such a practitioner or midwife.

3. For the purposes of paragraph (a) of subdivision two of this section, no account shall be taken of the effect on the person on whom such procedure is to be performed of any belief on the part of that or any other person that such procedure is required as a matter of custom or ritual. Female genital mutilation is a class E felony.

**S 130.90 Facilitating a sex offense with a controlled substance.**

A person is guilty of facilitating a sex offense with a controlled substance when he or she:

- 1. Knowingly and unlawfully possesses a controlled substance or any preparation, compound, mixture or substance that requires a prescription to obtain and administers such substance or preparation, compound, mixture or substance that requires a prescription to obtain to another person without such person's consent and with intent to commit against such person conduct constituting a felony defined in this article; and
- 2. Commits or attempts to commit such conduct constituting a felony defined in this article.

Facilitating a sex offense with a controlled substance is a class D felony.

**S 130.91 Sexually motivated felony.**

1. A person commits a sexually motivated felony when he or she commits a specified offense for the purpose, in whole or substantial part, of his or her own direct sexual gratification.

2. A "specified offense" is a felony offense defined by any of the following provisions of this chapter: assault in the second degree as defined in section 120.05, assault in the first degree as defined in section 120.10, gang assault in the second degree as defined in section 120.06, gang assault in the first degree as defined in section 120.07, stalking in the first degree as defined in section 120.60, strangulation in the second degree as defined in section 121.12, strangulation in the first degree as defined in section 121.13, manslaughter in the second degree as defined in subdivision one of section 125.15, manslaughter in the first degree as defined in section 125.20, murder in the second degree

as defined in section 125.25, aggravated murder as defined in section 125.26, murder in the first degree as defined in section 125.27, kidnapping in the second degree as defined in section 135.20, kidnapping in the first degree as defined in section 135.25 burglary in the third degree as defined in section 140.20, burglary in the second degree as defined in section 140.25, burglary in the first degree as defined in section 140.30, arson in the second degree as defined in section 150.15, arson in the first degree as defined in section 150.20, robbery in the third degree as defined in section 160.05, robbery in the second degree as defined in section 160.10, robbery in the first degree as defined in section 160.15, promoting prostitution in the second degree as defined in section 230.30, promoting prostitution in the first degree as defined in section 230.32, compelling prostitution as defined in section 230.33, disseminating indecent material to minors in the first degree as defined in section 235.22, use of a child in a sexual performance as defined in section 263.05, promoting an obscene sexual performance by a child as defined in section 263.10, promoting a sexual performance by a child as defined in section 263.15, or any felony attempt or conspiracy to commit any of the foregoing offenses.

**S 130.92 Sentencing.**

1. When a person is convicted of a sexually motivated felony pursuant to this article, and the specified felony is a violent felony offense, as defined in section 70.02 of this chapter, the sexually motivated felony shall be deemed a violent felony offense.
2. When a person is convicted of a sexually motivated felony pursuant to this article, the sexually motivated felony shall be deemed to be the same offense level as the specified offense the defendant committed.
3. Persons convicted of a sexually motivated felony as defined in section 130.91 of this article, must be sentenced in accordance with the provisions of section 70.80 of this chapter.

**S 130.95 Predatory sexual assault.**

A person is guilty of predatory sexual assault when he or she commits the crime of rape in the first degree, criminal sexual act in the first degree, aggravated sexual abuse in the first degree, or course of sexual conduct against a child in the first degree, as defined in this article, and when:

1. In the course of the commission of the crime or the immediate flight therefrom, he or she:
  - (a) Causes serious physical injury to the victim of such crime; or
  - (b) Uses or threatens the immediate use of a dangerous instrument; or
2. He or she has engaged in conduct constituting the crime of rape in the first degree, criminal sexual act in the first degree, aggravated sexual abuse in the first degree, or course of sexual conduct against a child in the first degree, as defined in this article, against one or more additional persons; or
3. He or she has previously been subjected to a conviction for a felony defined in this article, incest as defined in section 255.25 of this chapter or use of a child in a sexual performance as defined in section 263.05 of this chapter.

Predatory sexual assault is a class A-II felony.

**S 130.96 Predatory sexual assault against a child.**

A person is guilty of predatory sexual assault against a child when, being eighteen years old or more, he or she commits the crime of rape in the first degree, criminal sexual act in

the first degree, aggravated sexual abuse in the first degree, or course of sexual conduct against a child in the first degree, as defined in this article, and the victim is less than thirteen years old.

Predatory sexual assault against a child is a class A-II felony