

**FMCC**



**THE SOURCE**

**2023-2024 Student Handbook**

## To the Students of SUNY FMCC

Welcome to SUNY Fulton-Montgomery Community College.

In this student handbook, *The Source*, you will find a variety of programs and services offered at FMCC that are designed to help you be a successful college student. It also includes a description of the multitude of student clubs and diverse organizations that are on campus to help you enjoy your college experience. Please take time to familiarize yourself with this handbook and all that it has to offer.

Included within this handbook is detailed information about your responsibilities as a college student. As you enter FMCC, you enter a new phase of your education. College expectations of you are higher than you may have experienced in high school; but I am confident that you can attain them. Here at FMCC everyone is expected to conduct themselves with honesty and integrity, be open to new ideas, celebrate the diversity of those around you, and conduct yourself in a civil and professional manner. If you follow the Code of Conduct and are considerate of everyone on campus, I know that you will do well at our college.

Of course, in addition to your studies, you should have fun! College can be one of the most rewarding times of your life. You will develop new friendships and create memories that you will have for a lifetime. In order to make the most of your college experience get involved in student clubs, student senate, athletics, co-curricular activities, and the events at FMCC.

If you take advantage of all that FMCC has to offer, I am sure that you will be successful in your studies and enjoy your college experience.

Best wishes for a great year.

A handwritten signature in black ink, appearing to read "Greg Truckenmiller". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Greg Truckenmiller, Ph.D.  
President

## **Fulton-Montgomery Community College**

### **Mission**

Fulton-Montgomery Community College's mission is to deliver higher education through accessible and equitable learning opportunities that empowers our diverse student body to meet their academic and career goals. FMCC is committed to fostering partnerships that will encourage stronger community relations and provide transformative learning experiences.

### **Vision**

Fulton-Montgomery Community College - the community's college - works to improve the lives of the various populations it serves and is devoted to offering remarkable, high-quality learning experiences that meet the needs of its students in an always transforming world.

### **Core Values – EMPOWER**

Empower our faculty, staff, and our students through opportunities, integrity, and a commitment to growth.

Empower our stakeholders through diversity, inclusion, engagement, participation, and partnership.

Empower our community through accessible, high quality, and relevant education.

#### **EMPOWER**

E – Empathy – Attentive listening, speaking honestly, embracing cultural differences, and having compassion for divergent perspectives and opinions.

M – Mindfulness – Through critical analysis and integrity, embrace social justice and value the life, hopes, and dreams of everyone in our society without judgement and with kindness.

P – Perseverance – Commitment to growth and inner strength by continuing forward and remaining focused on a goal, idea, or obligation.

O – Opportunity – Seek and promote creative, equitable experiences that support personal growth and learning in a global society.

W – Wellbeing – Foster a safe climate of belonging, happiness, and mind- body connectedness as a diverse community that encourages learning from each other.

E – Engagement – Cultivate positive relationships and partnerships to deliver 21st century knowledge, skills, and competencies that support an equitable student experience.

R – Relevance – Collective attention to ever evolving student and community needs.

### **FMCC Civility Statement**

FMCC is committed to fostering an environment of civility. All members of the FMCC community and visitors have the right to experience, and the responsibility to create and maintain, an environment of mutual respect and support that is civil in all aspects of human relations. Civility facilitates professional growth and achievement and promotes an environment where each person can reach his or her full potential.

*Fulton-Montgomery Community College, a community college of the State University of New York, does not discriminate against any employee, applicant for employment, intern, whether paid or unpaid, contractor, student, or applicant for admission or other members of the college community (including but not limited to vendors, visitor, and guests) based on an individual's race, color, national origin, religion, creed, age, disability, sex, gender identification, gender expression, sexual orientation, self-identified or perceived sex, the status of being transgender, familial status, pregnancy, predisposing genetic characteristics, military status, veteran status, domestic violence victim status, criminal conviction or any other category protected by law. The College adheres to all federal and state laws prohibiting discrimination and sexual harassment in public institutions of higher education.*

*The College prohibits conduct by any employee or any student who disrupts or interferes with another's work performance or educational experience, or who creates an intimidating, offensive, or hostile work or educational environment due to discrimination based on protected status or sexual harassment. In keeping with this goal, the College is committed to educate employees in the recognition and prevention of workplace and educational discrimination and sexual harassment. Improper conduct may violate the College's policy, when it is more serious than petty slights or trivial inconveniences.*

Contents

STUDENT RIGHTS AND RESPONSIBILITIES..... 7

ACADEMIC FREEDOM STATEMENT..... 7

ACADEMIC CALENDAR ..... 8

COLLEGE CLOSING INFORMATION..... 12

HOW TO STAY INFORMED ..... 12

PHONE DIRECTORY FOR STUDENT SERVICES..... 12

RAIDER TRADER COLLEGE STORE..... 14

CAREER AND TRANSFER SERVICES..... 14

DISABILITY SERVICES ..... 15

MENTAL HEALTH COUNSELING..... 15

STUDENT I.D. CARDS..... 15

STUDENT SENATE ASSOCIATION..... 15

STUDENT CLUBS AND ORGANIZATIONS ..... 16

ATHLETICS ..... 19

FITNESS CENTER..... 19

OPEN RECREATION..... 19

THE EVANS LIBRARY & THE COMMONS..... 20

ACADEMIC ADVISEMENT & REGISTRATION..... 20

COMMENCEMENT ..... 21

STUDENT EMAIL AND ONLINE TOOLS..... 21

GRADE DEFINITIONS ..... 22

COMPUTE YOUR CUMULATIVE GRADE POINT AVERAGE ..... 22

CUMULATIVE GRADE POINT AVERAGE..... 23

TRANSCRIPTS ..... 23

ACADEMIC STANDING..... 23

ADDING/DROPPING FROM COURSES ..... 23

WITHDRAWAL FROM A COURSE..... 24

WITHDRAWAL FROM THE COLLEGE ..... 24

FINANCIAL AID ..... 24

ACADEMIC STANDARDS..... 25

ACADEMIC PROBATION PROCEDURES..... 26

FINANCIAL AID ELIGIBILITY..... 27

CAMPUS SMOKING POLICY..... 27

DEPARTMENT OF PUBLIC SAFETY ..... 28

BLUE LIGHT SAFETY PHONES .....	28
PARKING REGULATIONS.....	28
TRANSPORTATION .....	29
IMMUNIZATION AGAINST MEASLES, MUMPS AND RUBELLA .....	29
CAMPUS FACILITIES.....	30
GLOSSARY.....	31
APPENDIX A - PROCEDURE TO FILE A COMPLAINT .....	33
APPENDIX B - FAMILY EDUCATION RIGHTS AND PRIVACY ACT .....	34
APPENDIX C – CODE OF CONDUCT .....	36
I. Introduction .....	36
II. Students’ Rights and Responsibilities .....	37
III. College Responsibilities .....	37
IV. Definitions.....	38
V. Jurisdiction.....	39
VI. Violations .....	40
VII. Classroom Misconduct .....	42
VIII. Persona Non Grata Status .....	42
IX. Initiation of Student Disciplinary Procedures.....	43
X. Administrator’s Determination .....	44
XI. The Student Life Hearing Board Hearing and Determination...	44
XII. The Appeal Process for Cases Addressed by the Student Life Hearing Board	46
XIII. Sanctions for Students.....	47
XIV. Modification of the Code of Conduct .....	48
APPENDIX D - WAIVER OF ACADEMIC REGULATIONS .....	48
APPENDIX E - APPEAL FOR REVIEW OF GRADES .....	48
APPENDIX F - ACADEMIC INTEGRITY POLICY .....	49
APPENDIX G - STUDENT DRUG AND ALCOHOL POLICY.....	51
APPENDIX H – POLICY ON SEXUAL MISCONDUCT PREVENTION AND RESPONSE .....	52
I. Purpose and Scope .....	52
II. Definitions.....	53
III. Alcohol and/or Drug Use Amnesty for Students in Sexual Misconduct Cases	60
IV. Campus Climate Assessment .....	60
V. Students’ Bill of Rights .....	61
VI. Rights of Reporting Individuals.....	62
VII. Options for Confidentially Disclosing Sexual Misconduct .....	68

VIII. Student Onboarding and Ongoing Education..... 70

IX. Interplay Between the Criminal Justice Process & the Sexual Misconduct Process Under the Policy ..... 74

X. Sexual Misconduct Investigation Process & Procedures ..... 75

XI. Student Discipline for Sexual Misconduct ..... 80

XII. Employee Discipline for Sexual Misconduct..... 91

XIII. Prohibition of Retaliation ..... 92

XIV. Institutional Crime Reporting ..... 92

XV. FMCC Partnerships ..... 93

Addendum A ..... 94

## STUDENT RIGHTS AND RESPONSIBILITIES

### **STUDENT RESPONSIBILITY**

It is the student's responsibility to familiarize himself/herself with all the College's Rules and Regulations as set forth in official College publications. Failure to read this handbook does not excuse students from the requirements and regulations herein.

### **PAYMENT AND COLLECTIONS**

College tuition, fees, and all costs associated with attending college are the responsibility of the student. Students who incur a debt to the College will be responsible for all collection and attorney fees associated with the collection of that debt, including collection costs which will be at a minimum of 25 percent of the debt, plus any and all attorney and court costs.

### **HUMAN RIGHTS**

The College expects all students, staff and faculty to practice high regard for the human dignity of other persons. It seeks to prevent all types of discrimination on the basis 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. Repeated disregard for the rights and dignity of others will result in disciplinary action by the College. Any student who feels that he/she has been the victim of discrimination or harassment should first bring his/her complaint to the Dean of Student Affairs to discuss such problems and to seek recourse, including submitting an official complaint which requires a formal hearing. If a formal hearing is requested, the procedures established by the College shall be followed. Such a hearing shall be confidential.

### **ATTENDANCE**

Students are expected to be present and on time for all scheduled classes and laboratories. In cases where a student is tardy or absent, the student is responsible for materials or assignments presented in his/her absence. The degree to which attendance affects a student's final grade will be determined by the individual instructor and stated in the course syllabus.

### **CODE OF CONDUCT**

FMCC has the right and the authority to protect its educational purpose through the setting of standards for on campus and off campus conduct for students. Code of conduct is found in Appendix C.

## ACADEMIC FREEDOM STATEMENT

### **INTRODUCTION**

Fulton-Montgomery Community College fully endorses the free exchange of ideas and the exploration of topics and issues on campus and in the global context. To support such exchange of ideas, the College and the Board of Trustees support the following statement regarding academic freedom.

### **POLICY**

Academic Freedom is a time-honored responsibility and special privilege for all members of the college including full-time and part-time faculty, staff and students that protects the following activities:

- Providing constructive criticism on academic and institutional policies and procedures and the ability to recommend such policies and procedures to FMCC;



- Teaching classes with available instructional resources and pedagogies that promote critical thinking and investigation in their respective disciplines;
- Conducting academic research;
- And, maintaining authority to uphold academic standards and assign appropriate grades.

## ACADEMIC CALENDAR

### FALL 2023

Sept. 1	Fri.	Development Day
Sept. 5	Tues.	Last day to register for Fall Session w/o \$25 late fee
<b>Sept. 6</b>	<b>Wed.</b>	<b>First Day of Classes for Fall Session</b>
Sept. 6-12	Wed. – Tues.	Late Registration (Subject to \$25.00 late fee)
Sept. 6-19	Wed. – Tues.	Late Payment Period (Subject to \$25.00 late fee)
Sept. 12	Tues.	Last Day for Student-Initiated Schedule Changes
Sept. 20-Oct. 3	Wed.-Tues.	Late Payment (subject to additional \$50 late fee)
Sept. 28	Thurs.	1 <sup>st</sup> 5-Week Session Individual Course Withdrawal Deadline (Session 01)
Sept. 29	Fri.	2 <sup>nd</sup> 10-Week Session Courses Begin (Session 06)
Oct. 3	Mon.	Deadline to Apply for Fall 2023 Graduation
Oct. 9	Mon.	Columbus Day Holiday – No classes (limited services/facilities may be available) Saturday Oct. 7 classes will be in regular session
Oct. 11	Wed.	1 <sup>st</sup> 7-Week Session Individual Course Withdrawal Deadline (Session 02)
Oct. 11	Wed.	2 <sup>nd</sup> 5-Week Session Courses Begin (Session 04)
Oct. 16	Mon.	On-Campus Registration Begins for Winter and Spring 2024
Oct. 25	Wed.	Mid-Term Grades Due at Noon
Oct. 26	Thurs.	2 <sup>nd</sup> 7-Week Courses Begin (Session 05)
Oct. 30	Mon.	1 <sup>st</sup> 10-Week Session Individual Course Withdrawal Deadline (Session 03)
Nov. 3	Fri.	2 <sup>nd</sup> 5-Week Session Individual Course Withdrawal Deadline (Session 04)
Nov. 10	Fri.	Veteran’s Day Holiday – No classes (limited services/facilities may be available)
Nov. 15	Wed.	Last Day for Individual Course Withdrawals
Nov. 15	Wed.	3 <sup>rd</sup> 5-Week Courses Begin (Session 07)
Nov. 22	Wed.	2 <sup>nd</sup> 10-Week Session Individual Course Withdrawal Deadline (Session 06)
Nov. 22	Wed.	Classes end at 5 p.m. for Thanksgiving Holiday (limited services/facilities

Nov. 23-26	Thurs. – Sun.	Thanksgiving Holiday – No classes (limited services/facilities may be available)
Dec. 4	Mon.	2 <sup>nd</sup> 7-Week Session Individual Course Withdrawal Deadline (Session 05)
Dec. 4	Mon.	3 <sup>rd</sup> 5-Week Session Individual Course Withdrawal Deadline (Session 07)
Dec. 8	Fri.	Special Friday Makeup Session (for evening classes only)
<b>Dec. 15</b>	<b>Fri.</b>	<b>Last Day of Classes</b>
Dec. 18-19	Mon. – Tues.	Final Exams
Dec. 21	Thurs.	Final Grades Due at Noon
Dec. 23 – Jan. 1	Sat. – Mon.	Christmas/New Year Break – Campus Closed

## WINTER 2024

Dec. 22, 2023	Fri.	Last Day to Register for Winter Session without \$25 Late Fee
Jan. 2	Tues.	First Day of Classes for Winter Session
Jan. 2	Tues.	Late Payment Subject to \$25 Late Fee
Jan. 12	Fri.	Last Day for Individual Course Withdrawals
Jan. 15	Mon.	M.L. King, Jr. Holiday – No classes (limited services/facilities may be available)
Jan. 19	Fri.	Last Day of Classes for Winter Session
Jan. 22	Mon.	Final Grades Due for Winter Session

## SPRING 2024

Jan. 23	Tue.	Last day to Register for Spring without \$25 Late Fee
Jan. 23	Tue.	New Student Orientation
<b>Jan. 24</b>	<b>Wed.</b>	<b>First Day of Classes for Spring Semester</b>
Jan. 24-30	Wed. – Tues.	Late Registration (subject to \$25 late fee)
Jan. 24 – Feb. 6	Wed. – Tues.	Late Payment Period (subject to \$25 late fee)
Jan. 30	Tues.	Last Day for Student-Initiated Schedule Changes
Feb. 7 – 20	Wed. – Tues.	Late Payment Period (subject to additional \$50 fee)
Feb. 14	Wed.	1 <sup>st</sup> 5-Week Session Individual Course Withdrawal Deadline (Session 01)
Feb. 14	Wed.	Deadline to Apply for Spring 2024 Graduation
Feb. 19	Mon.	President's Day Holiday – No classes (limited services/facilities may be available) Sat, Feb. 17 classes will be in regular session

Feb. 20	Tues.	Founder's Day – No day/evening classes (limited services/facilities may be available)
Feb. 26	Mon.	1 <sup>st</sup> 7-Week Session Individual Course Withdrawal Deadline (Session 02)
Feb. 26	Mon.	2 <sup>nd</sup> 10-Week Courses Begin (Session 06)
Feb. 28	Wed.	2 <sup>nd</sup> 5-Week Courses Begin (Session 04)
March 13	Wed.	Mid-Term Grades Due
March 14	Thurs.	1 <sup>st</sup> 10-Week Session Individual Course Withdrawal Deadline (Session 03)
March 18	Mon.	On-Campus Registration Begins for Summer and Fall 2024
March 25	Mon.	2 <sup>nd</sup> 5-Week Session Individual Course Withdrawal Deadline (Session 04)
March 25	Mon.	2 <sup>nd</sup> 7-Week Courses Begin (Session 05)
March 29	Fri.	Good Friday Holiday – No classes (limited services/facilities may be available)
Mar. 30- April 7	Sat. – Sun.	Spring Recess – No classes (limited services/facilities may be available)
April 8	Mon.	3 <sup>rd</sup> 5-Week Courses Begin (Session 07)
April 10	Wed.	Individual Course Withdrawal Deadline
April 15	Mon.	2 <sup>nd</sup> 10-Week Session Individual Course Withdrawal Deadline (Session 06)
April 24	Wed.	2 <sup>nd</sup> 7-Week Session Individual Course Withdrawal Deadline (Session 05)
April 30	Tue.	3 <sup>rd</sup> 5-Week Session Individual Course Withdrawal Deadline (Session 07)
May 3	Fri.	Special Friday Make-up Session (for evening classes only)
<b>May 10</b>	<b>Fri.</b>	<b>Last Day of Classes for Spring Semester</b>
May 13-14	Mon.–Tues.	Final Exams
May 16	Thu.	Final Grades Due
May 16	Thu.	Academic Awards Ceremony (evening)
May 17	Fri.	Commencement (evening) –Fulton-Montgomery Community College
May 27	Mon.	Memorial Day Holiday – No classes (limited services/facilities may be available)

## SUMMER 2024

**Summer Add/Drop Period, for all sessions, is 24 hours after the first class meeting day (date will vary by class).**

SUMMER DAY SESSION I		
May 24	Fri.	Last day to Register for "Day Session I", "Summer Eve 8 and 10-week Sessions" without \$25 late fee
May 27	Mon.	Memorial Day Holiday – No classes (limited services/facilities may be available)

May 28	Tues.	First Day of Classes For "Summer Day Session I"
May 29	Wed.	Late Payment Period for "Summer Day Session I" (subject to \$25 late fee)
June 18	Tues.	Last Day for Individual Course Withdrawals for "Summer Day Session I"
June 19	Wed.	Juneteenth Holiday Observed – No Classes (limited services/facilities may be available)
June 21	Fri.	Special Friday Make Up Day for "Summer Day Session I"
June 28	Fri.	Last Day of Classes for "Summer Day Session I"
July 1	Mon.	Final Grades Due for "Summer Day Session I"
		<b>SUMMER DAY SESSION II</b>
June 28	Fri.	Last day to Register for "Summer Day Session II" w/o a \$25 late fee
July 1	Mon.	First Day of Classes for "Day Session II"
July 2	Tues.	Late Payment Period for "Day Session II" (subject to \$25 late fee)
July 4	Thu.	Independence Day Holiday – No classes (limited services/facilities may be available)
July 23	Tues.	Last Day for Individual Course Withdrawals for "Day Session II"
July 26	Fri.	Special Friday Make Up Day for "Day Session II"
Aug. 2	Fri.	Last Day of Classes for "Day Session II"
Aug. 5	Mon.	Final Grades Due for "Day Session II"

		<b>SUMMER 8-WEEK EVENING SESSION</b>
May 24	Fri.	Last day to Register for "Day Session I", "Summer Eve 8 and 10-week Sessions" w/o \$25 late fee
May 27	Mon.	Memorial Day Holiday – No classes (limited services/facilities may be available)
May 28	Tues.	First Day of Classes For "8-Week Evening Session"
May 29	Wed.	Late Payment Period for "8-Week Evening Session" (subject to \$25 late fee)
June 19	Wed.	Juneteenth Holiday Observed – No Classes (limited services/facilities may be available)
July 2	Tues.	Last Day for Individual Course Withdrawals for "8-Week Evening Session"
July 4	Thu.	Independence Day Holiday – No classes (limited services/facilities may be available)
July 12	Fri.	Special Friday Make Up Day for "8-Week Evening Session"
July 19	Fri.	Last Day of Classes for "Summer 8-Week Evening Session"
July 22	Mon.	Final Grades Due for "8-Week Evening Session"
		<b>SUMMER 10-WEEK SESSION</b>

May 24	Fri.	Last day to Register for “Day Session I”, “Summer Eve 8 and 10-week Sessions” without \$25 late fee
May 27	Mon.	Memorial Day Holiday – No classes (limited services/facilities may be available)
May 28	Tues.	First Day of Classes for “10-Week Session”
May 29	Wed.	Late Payment Period for “10-Week Session” (subject to \$25 late fee)
June 19	Wed.	Juneteenth Holiday Observed – No Classes (limited services/facilities may be available)
July 4	Thu.	Independence Day Holiday – No classes (limited services/facilities may be available)
July 11	Thu.	Last day for Individual Course Withdrawal for “10-Week Session”
July 26	Fri.	Special Friday Make Up Day for “10-Week Session”
Aug. 2	Fri.	Last Day of Classes for “10-Week Session”
Aug. 5	Mon.	Final Grades Due for “10-Week Session”

## COLLEGE CLOSING INFORMATION

Should it be necessary to close the College for weather or emergency reasons, the local radio and television stations will carry the news. Also, up-to-date information may be found on the FMCC website at [www.fmcc.edu](http://www.fmcc.edu). Sign up for SUNY Alert. Login to My FMCC and click on How to Enroll in SUNY NY Alerts.

## HOW TO STAY INFORMED

1. Check your FMCC email daily via MyFM link on the College website at [www.fmcc.edu](http://www.fmcc.edu)
2. Sign up for SUNY Alert. Login to My FM and click on SUNY Alert link to enroll.
3. Check out the FMCC website for announcements.
4. Check out the FMCC Social Media sites for announcements. Follow SUNY Fulton-Montgomery Community College on Facebook, SUNY\_FMCC on Twitter, SUNY\_FMCC on Instagram
5. Read the campus bulletin boards and campus TVs.
6. Attend Student Senate Association and FCA Corporation meetings. The Student Senate Association meets monthly. The schedule of meetings is available from the Student Involvement Office. The FCA Corporation meets 3 times a year - in early Fall, in early Spring, and a closing meeting in May. The FCA Board of Directors meets monthly. Visit the Student Involvement Office for more information.

## PHONE DIRECTORY FOR STUDENT SERVICES

The main College telephone number is 518-736-FMCC (3622). Direct dial numbers are listed for some offices. There is a staff directory located on the FMCC website. <http://www.fmcc.edu/about/directory/>

<b>SUBJECT/CONTACT</b>	<b>BUILDING or OFFICE</b>	<b>PHONE</b>
Absence/Instructor		Various
Absence – Extended /Academic Dean	A207	8005
Academic Advisement/Student Development Center	N107	8140
Academic Assistance/Instructor		Various
Academic Programs/Dean's Office	C207	8005
Admission/Admission's Office	A117	8301
Athletics/Director of Athletics	P109	8113
Books & Supplies/Raider Trader College Store	Student Union	518-762-8022
Career Programs/Student Development Center	N107	8161
Child Care Center/Director FMCC Playmates	Day Care	518-762-5333
Class Schedules/Student Development Center	N107	8140
Clubs/Student Activities Office	L100S Commons	8070
Course Change/ Student Development Center	N107	8140
Curriculum Change/ Student Development Center	N107	8140
Employment/Career Resource Center	N107	8161
Financial Aid/Financial Aid Office	A105	8201
Graduation Requirements/ Student Development Center	N107	8140
Insurance/Bursar's Office	A107	8601
Internships/Director of External Partnerships and Applied Learning	C207	8931
Library Information/Library Front Desk	Library	8058
Lost & Found/Public Safety Office	P144	8405

<b>SUBJECT/CONTACT</b>	<b>BUILDING or OFFICE</b>	<b>PHONE</b>
Parking Permits/Public Safety Office	P144	8405
Payment of Bills/Bursar's Office	A107	8601
Scholarships & Loans/Financial Aid Office	A105	8201
Student Activities/Student Activities Office	L100S Commons	8070
Student Records/Registrar's Office	N107	8141
Student Senate Assoc./SSA Office	L100S Commons	8070
Students with Disabilities/Coordinator of Accessibility Services	Commons	8145
Tutoring/Academic Support	Commons	8061
Veteran's Affairs/Financial Aid Office	A105	8203
Withdrawal/Student Development Center	N107	8140
Work Study/Financial Aid Office	A105	8201

## RAIDER TRADER COLLEGE STORE

The Raider Trader College store is located in the Student Union. You can purchase all your required course materials (new, used, rental and digital) as well as a wide variety of general merchandise. The store has school supplies, emblematic gifts and clothing, back packs, snacks and health and beauty items. Computers and technology are also available, the store is an authorized Apple dealer. The hours of the store are Monday-Friday 9:00 AM – 4:00 PM, hours are extended during the first week of classes in the fall and spring semesters. Please visit the store website at <http://www.bkstr.com/fultonmontgomeryccstore/home/en>

## CAREER AND TRANSFER SERVICES

Located in the Student Development Center, the Career and Transfer counselor provides transfer guidance to any student who is interested in pursuing an education after FMCC. Students can make an individual appointment or attend a transfer workshop to discuss transfer opportunities, the transfer process, and how to go about finding a school that will be the right fit. Throughout the academic year representatives from various colleges visit our campus to speak with students. There is a Transfer Fair on campus both the Fall and Spring semesters. The Transfer Fairs are attended by dozens of four-year college and university representatives who will be able to assist in helping students through the transfer process.

FMCC offers support for students in creating resumes, cover letters, and working on interview skills. FMCC utilizes online resources for students to complete assessments and learn about different careers. Students are invited to visit the Career Corner located in the Evan's Library. Each spring, a job fair is hosted on campus and local companies are invited to recruit students. More information can be found in the Student Development Center or by contacting [andrea.scribner@fmcc.edu](mailto:andrea.scribner@fmcc.edu).

## DISABILITY SERVICES

Fulton-Montgomery Community College is committed to providing equal access to educational opportunities and programs for qualified students with disabilities. FMCC complies with federal and state laws to offer reasonable accommodations for students with disabilities. Students requesting accommodations for a placement test and/or other campus programs and services must first self-disclose information regarding their disability to the Coordinator of Accessibility Services located in the Commons, room L102. Students may need to provide documentation of disability and/or need for reasonable accommodations from an appropriate credentialed professional. This information is confidential and kept separate from the student's academic file. Requests for accommodations are on a semester-to-semester basis and may vary depending on the course schedule and the individual student needs. Possible accommodations may include, but are not limited to, use of smart pens, note takers for class lectures, audio textbooks, sign language interpreters, financial aid waivers with a reduced schedule and text to speech software.

## MENTAL HEALTH COUNSELING

Students who are in immediate crisis, contemplating suicide, or feel in danger of hurting themselves should contact the Mental Health Emergency Hotline number at 988 or go to their nearest hospital.

## STUDENT I.D. CARDS

The College issues photo I.D. cards to all currently registered students. This card is required to use the Evans Library and to access specialized labs, such as the computer labs, food pantry and dining services if a meal plan is in effect. All students are expected to carry their valid photo I.D. card at all times and produce it upon request. Validation to verify enrollment status is required every semester. Contact the Commons front desk, located on the first floor of the Library Building, or call 518-736-FMCC (3622) ext. 8058 for more information.

## STUDENT SENATE ASSOCIATION

### **STUDENT SENATE ASSOCIATION**

The Student Senate Association (SSA) represents the student body in identifying broad social, academic, and cultural needs and determining ways to meet those needs. This is done through the SSA, a body that consists of the elected officers and a representative of each club and organization on campus. The SSA meets monthly, and the meetings are open to all students to discuss issues relevant to all facets of the student life.



Each club/organization has one (1) voting SSA representative. Elections for Student Senate Officers are often held each semester when/if an officer vacancy is expected for the upcoming semester. The election of a Student Trustee occurs in April of the upcoming academic year. The SSA receives an allocated portion of the Student Activity fee to sponsor the Student Activities, the Athletics program, and the clubs and organizations listed below.

### **STUDENT ACTIVITY FEE**

The Student Activity Fee (Fee) funds the activities of the SSA and the Student Activities Board (SAB) and the Fulton-Montgomery Athletic Association (FMAA). Fulmont College Association (FCA) is the Fiscal Agent for SSA, SAB and FMAA. The Fee is approved annually by the College's Board of Trustees as part of approving the College's annual "Tuition and Fee Schedule". On behalf of the SSA, SAB and FMAA, the College assesses the fee to all full time and part time students; collects the fee; and remits 100% of the collected fees to their fiscal agent, FCA.

In accordance with the SSA bylaws, the College's Board of Trustees, through the College President, allocates the Student Activity Fee among the SSA, SAB, and FMAA. The SSA, SAB, and FMAA organizations allocate their funds to approved clubs, organizations and activities via an annual budgeting process that includes approval by the College President. These annual budgets are available in the office of the FCA Accountant for review by any and all students.

## **STUDENT CLUBS AND ORGANIZATIONS**

The following is a list of the clubs and organizations sponsored by the SSA that are currently active at FMCC. Formation of new clubs is encouraged. Students interested in participating in one of the existing clubs or in forming a new one should contact the Student Involvement Office. Be active! Join or start a club!

### **ABLE**

Abilities Beyond Limitation through Education is the club for students who wish to explore ways to make attending college easier for students with disabilities. Students work together on projects to raise money for club outings and activities to support this mission.

### **American Sign Language**

The American Sign Language Club collaborates with the local deaf community to meet and greet in ASL- a visual, spatial concept language which is not related to English. They advocate for equal rights of deaf individuals and promote that the only thing the deaf cannot do is hear.

### **Criminal Justice Club**

The Criminal Justice Club allows students to meet and interact with various law enforcement professionals from federal, state, county and local agencies in an informal setting. Students hear from speakers, view videotapes and participate in field trips to learn about the diversity of the criminal justice field. This exposure allows club members insight into their interests in the pursuit of their goals. Students also have the ability to work closely with the criminal justice professionals in volunteer programs.

**FMCC Biz Hub**

The Business Club is open to all students and is active in both social and service-oriented activities. Typical activities include sponsoring families during the holiday season, organizing a recognition lunch for clerical staff, and trips to such places as Boston, New York, Lake Placid, Burlington, Montreal, Quebec City, and Washington D.C.

**Foggy Mountain Players**

The Foggy Mountain Players members work closely with the FMCC's Theater Department to produce campus plays and musicals. Club members include students interested in set design, acting, directing, costume design, and other areas of theatrical production. Other club activities include talent shows, tours of local theaters, and trips to Albany, Boston, and New York City to see shows.

**Fulton-Montgomery Athletic Association (FMAA)**

The Fulton-Montgomery Athletic Association fosters student participation in the governance of athletics at the College and to act as liaison between the athletic department and the Student Senate Association. Membership is not limited to athletic team members.

**Graphic Arts and Photography Club**

The Graphic Arts and Photography Club focuses on providing a link to industry via professional outside organizations. Club members may participate in monthly dinner meetings with a chapter of the International Association of Printing House Craftsmen. Printing plant tours are integrated with the club's event schedule. Community services include job printing for some non-profit organizations and fund-raiser donations to civic organizations.

**Hack FM Club**

The Hack FM Club aims to spread awareness to the rapidly growing software, networking, and cybersecurity jobs available while creating a community of individuals who solve problems through the innovative use of technology.

**Medical Imaging Student Association (MISA)**

MISA members are typically first and second year radiologic technology students, but membership is open to anyone. MISA serves the college, the community, and its members. MISA participates in fund-raising activities and community/college activities that relate to the medical imaging profession. Examples of these include sponsored trip to the 'Bodies' exhibit in New York City, sponsorship of families during holidays, on-campus symposiums that provide continuing education credit for area radiologic technologists and community awareness events for relevant health topics like Alzheimer's disease. MISA typically donates excess treasury proceeds to local organizations such as the YMCA, local animal shelters and the FMCC Foundation.

**Peer Tutor Club**

The Peer Tutor Club is open to any person who is actively working as a tutor. The Peer Tutor Club brings together some of the brightest students on campus. The club has participated in food drives, fundraisers, and review sessions for finals. The Peer Tutor Club is also active in the community through the March of Dimes Walk-a-thon. Any student who is interested in becoming a tutor and joining the Peer Tutor Club should inquire at the Learning Center, located in the Evans Library.

**Phi Theta Kappa (PTK)**

Phi Theta Kappa is the international honor society of two-year colleges. Alpha Alpha Upsilon chapter at FMCC has often earned the coveted 5-star status. PTK designs and implements activities around the hallmarks of Leadership, Fellowship, Scholarship, and Service.

**Society for the Study of Modern Visual Culture (Gaming Club)**

The Society for the Study of Modern Visual Culture is open to all students who enjoy playing video games and learning about how these games are created. This club plans such events as gaming tournaments, trips to gaming conferences, as well as bringing various speakers on campus to speak on this intriguing subject. The video gaming room is located in the basement of the Student Union and all are always welcome!

**Spectrum Club (Gay-Straight Alliance)**

The Spectrum Club offers the opportunity for students to discuss issues related to sexual orientation, diversity, and sex-based discrimination. The club sponsors on-campus speakers who promote tolerance. Members also attend conferences at other colleges where they can share ideas with their peers.

**Student Activities Board**

The Student Activities Board (SAB) consists of active student volunteers who choose, plan, and implement college-wide social, cultural, educational and community service events and programs. Students who are interested in being on the SAB should contact the Student Involvement Office, located in The Commons.

**Student Art Guild**

The Student Art Guild promotes visual fine arts on campus and in the community. Through hosting exhibitions, field trips and creative projects, the Art Guild enhances the students' as well as the communities' accessibility to the fine arts. With diverse exposure to fine arts, a greater appreciation of artistic expression can be fostered.

**Student Nurses Association (SNA)**

The Student Nurses Association (SNA) is comprised of first- and second-year nursing students, the SNA serves its students, the college community, and the general community. The SNA sponsors or participates in a few health-related activities such as blood pressure clinics, food drives, health fairs, and March of Dimes Walk America, AIDS Walk-a-thon, campus speakers and Coats for Kids. Members volunteer at area Soup Kitchens and Mental Health Association programs. SNA provides mentors for the Career Exploration Program at Centro Civico.

**Students of the World Club**

The Students of the World Club is not only for international students. This club promotes cross-cultural awareness by sponsoring service projects, recreational outings, plus on and off campus activities.

**Sustainability Club**

The Sustainability Club assists in building and maintaining gardens and trails on the campus fosters a sense of community between students, FMCC employees, Liberty Enterprises, HFM BOCES, and the local community. The Club invests students in caring for their physical environment by supporting and raising awareness of their relationship with the world around them providing them with the opportunity for education, recreation and general wellness, and raising awareness about the topic of sustainability.

**Tabletop Gaming Club**

The FMCC Tabletop Gaming Club is designed for students who enjoy playing Magic the game and other role-playing card games.

**Think Peace**

The Think Peace Club has four simple goals: Help promote peace through patience, equality, awareness, civility, and empathy; help promote peaceful/nonviolent methods of resolving conflict, help promote peace by respecting the dignity, diversity, and human rights of all people; support the practice of civility individually, in the school community, and in the local community.

**TRiO/EOP Club**

The EOP & TRiO Club will be dedicated to promoting camaraderie among students in the EOP and TRiO programs, to creating opportunities for FMCC students (with a focus on EOP & TRiO program participants) to participate in extracurricular activities that promote civic engagement, cultural appreciation, team building, and/or community service.

**Wall Street Club**

The Wall Street Club is an investment club. The purpose of the club is for students and faculty to have fun and learn about investing together.

**Word of Grace**

Aurora Christian Fellowship is a Christian oriented group that is open to all students and promotes the discussion of God and the Bible. The club contributes to the social, educational and cultural climate at Fulton-Montgomery Community College through the meetings, social activities and volunteer experiences.

## ATHLETICS

FMCC is a member of the National Junior College Athletic Association (NJCAA), Region III and the Mountain Valley Collegiate Conference and has been represented in both regional and national competition by successful teams and individual team members. The College offers Women's Softball, Basketball, Cross-Country, Bowling, Soccer, Golf and Volleyball teams and Men's Baseball, Basketball, Cross-Country, Bowling, Golf, and Soccer. For details, contact the Director of Athletics in the Physical Education Building or check out Athletics website at [www.FMraidersathletics.com](http://www.FMraidersathletics.com).

## FITNESS CENTER

The FMCC Fitness Center offers a state-of-the-art facility that allows students, faculty, and staff to work out while on campus. Fitness center hours are posted on the website and at the Fitness Center.

## OPEN RECREATION

Students can use the Physical Education building throughout the entire week for open recreation activities. The gymnasium hours are posted on the website and in the Physical Education Building.

## THE EVANS LIBRARY & THE COMMONS

### **The Evans Library**

The Evans Library includes a collection of approximately 14,000 print books and periodicals, a media collection consisting of instructional and popular DVDs as well as a wide range of online educational resources including over 30,000 e-books and 50 databases. Traditional library services such as circulation, course reserves, and in-house use laptop loans are offered as well. Collaborative and independent spaces for academic study are also available. The Evans Library offers a wide range of Information Literacy services to support student learning and instruct students on the exploration, use, and creation of information.

The Evans Library is proud of its specialized resources, which include The Kenneth R. Dorn Regional History Collection and the Information Literacy Classroom. Through affiliations with other SUNY libraries and membership in the Capital District Library Council, the Library facilitates access to a variety of additional resources at no cost to its students. Visit <https://library.fmcc.edu> for library hours and more information on library services.

Important: A valid FMCC College photo ID is required when using most Library resources and must be presented upon request.

### **The Commons**

Students are invited to visit the Commons, where tutoring and academic coaching services including Math, Writing, Biology, Business, and Computers are co-located. At The Commons, students can work with a peer and/or professional tutor in their academic coursework: homework assignments, test-preparation, and general study-skill, writing and research projects.

The Commons is open Monday - Friday 9:00 am - 4:00 pm with additional evening and weekend virtual drop-in tutoring. Hours are subject to change – please visit <https://library.fmcc.edu> for up-to-date information.

## ACADEMIC ADVISEMENT & REGISTRATION

Contact the office of the Student Development Center located in the Visual Arts and Communications Building, N107, at 518-736-3622 ext. 8140 or email [talktoanadvisor@fmcc.edu](mailto:talktoanadvisor@fmcc.edu). Advisors are on call in the Student Development Center during normal business hours. Fall/Spring Semester Office Hours Monday-Thursday 8AM-5PM & Friday 8AM-4PM.

An important aspect of a student's education involves making informed decisions regarding the selection of an academic major and semester coursework. The College has maintained a high-quality program of academic advisement and registration that offers individual advising appointments for new and continuing students. This personalized approach to advisement is an effective method for helping students acclimate to the College environment by providing an academic and career assessment to set academic goals, discuss program and course requirements, and address identified academic support needs.

Academic advisors will be your campus "go to" person and assist you with any questions or concerns you may have surrounding your degree program, course requirements, class scheduling and other items

related to your academic success. We will work together to ensure you will be able to achieve all your college goals.

Our primary and official communication is your FMCC email account. Information regarding online and in person registration will be emailed to you. Each semester, course schedules are posted on MyFM. Students are encouraged to review the course schedule and Degree Works (FMCC's online degree audit) prior to their advisement appointment.

## COMMENCEMENT

Commencement, the College's annual graduation ceremony, is held once per year at the end of the spring semester in May. Students are responsible for purchasing a cap and a gown which are available at the Raider Trader College Store. Students who complete all requirements in December receive their diplomas after successful completion of course work and may attend Commencement in May. May applicants for graduation participate in Commencement as unverified candidates for graduation as long as they were registered for all requirements; final verification of graduation and issuing of diplomas occurs after commencement is held. August graduates participate in the Commencement that follows degree completion unless they meet all conditions for Early Participation in Commencement by April 1<sup>st</sup>. Students seeking approval for Early Participation in Commencement must be registered for all remaining graduation requirements, scheduled to be completed by August, and shall not exceed six credits in any combination or two courses up to eight credits. Students must file an application for August graduation, submit a form requesting approval for Early Participation in Commencement, and provide written verification of summer enrollment.

## STUDENT EMAIL AND ONLINE TOOLS

All registered students are provided with an FMCC email account. FMCC Student Email is the official email account you will use to communicate with faculty and administrative offices and receive any official notifications from FMCC while you are enrolled at the college.

**MyFM** gives you access to your unofficial transcripts, billing and financial aid information. It allows you to update information like your address and your password.

The **Brightspace Learning Management System** is used by FMCC faculty to deliver online course content, whether it is a fully-online course, a blended course, or a traditional course.

After you register for classes, you will receive a letter that contains your student identification number (you may hear this referred to as your PowerCAMPUS ID) and your username that you will use to access MyFM, FMCC email and Brightspace. A second letter will provide your initial password. If you misplace or do not receive your letters, you may request this information in person at the Registrar's Office with a photo ID.

MyFM, MyAid and Brightspace can be accessed from the FMCC homepage ([www.fmcc.edu](http://www.fmcc.edu)).

Your Username is composed of your first initial of your first name and the first initial of your last name plus 5 random numbers. (For students who had an account created between 2012 and 2017, the 5

numbers are the last 5 digits of your PowerCAMPUS student identification number. This is found on the back of your FMCC ID).

MyAid is an on-line information system allowing students to check the status of their financial aid application, view a list of documents needed or received, review financial aid awarded, accept/decline any pending financial aid awards, view your student loan history and check the status of your student loans for the current year. Your student ID for this tool is your social security number.

## GRADE DEFINITIONS

GRADE	DEFINITION	QUALITY POINTS
A	Superior Achievement	4.0
A-		3.7
B+		3.3
B	Above Average Achievement	3.0
B-		2.7
C+		2.3
C	Average Achievement	2.0
D	Minimal Passing	1.0
F	Below Minimal Passing	0.0
W	Withdrawal	*
I	Incomplete	*
S	Satisfactory	*
U	Unsatisfactory	*
AU	Audit	*
N	Non-Attendance (mid-semester grade only)	*
NE	No evaluation has been made at this time (mid-semester grade only)	
IP	In Progress	*

\* No quality points assigned; is not used to compute grade point average

## COMPUTE YOUR CUMULATIVE GRADE POINT AVERAGE

The following illustrates how a semester grade point average may be computed:

COURSE	CREDITS	GRADE	QUALITY POINTS	TOTAL QUALITY POINTS
ENG 103	3	C+	2.3	6.9
BUS 101	3	B	3.0	9.0
BUS 103	3	A-	3.7	11.1
MAT 120	4	A	4.0	16.0
PSY 101	3	C	2.0	6.0
	16			49.0

49 QUALITY POINTS ÷ 16 = 3.06 GRADE POINT AVERAGE

\*Total quality points for each course is the product of the credits for the course and the quality points represented by the grade earned.

## CUMULATIVE GRADE POINT AVERAGE

The cumulative grade point average is computed at the conclusion of each semester by dividing the total quality points by the total number of credits attempted (total credits, both passed and failed) during all of the semesters at FMCC. If a student feels that the final grade does not reflect their performance as a function of the instructor's criteria for grading, they may appeal for a review of grades (see Appendix F) in the back of this booklet.

## TRANSCRIPTS

Final grades are issued for all credit courses and are recorded on the student's official transcript. Midterm grades give students feedback on their academic progress but are not noted on the transcript. Midterm grades are only issued for semester-length courses. Students can view and print midterm and final grades with their login and password. Grades are not mailed out. Students may request a printed grade report in person at the Registrar's Office with a photo ID. Grades and transcripts reports are withheld when there is an outstanding obligation to the College (e.g. unpaid tuition, parking fine, etc.)

Students who need a transcript for an official purpose (transfer, employment) must request an official transcript in writing. Fulton-Montgomery Community College has retained Credentials Inc. to accept transcript orders over the Internet and appointed Credentials Inc. as the designated agent for processing and sending official electronic transcripts on behalf of FMCC. Official copies of your transcript can be requested either through Self Service at <https://ss.fmcc.edu> or through a link under Academics, <http://www.fmcc.edu/academics/registrar-office/transcript-requests/>. Transcripts have a cost of \$5 for each transcript (expedited shipping will incur additional fees). Transcript requests for in-person pick up will also be accepted at the Registrar's Office service window with a photo ID.

## ACADEMIC STANDING

Students who have completed a semester with 6 credits or more and with a grade point average of 3.20 or above for that semester, will be placed on the Dean's List in recognition of superior academic achievement. This distinction will be noted on the official transcript. Students who have a cumulative average of 3.5 or higher after completing a minimum of 15 semester hours will be invited to join the College's academic honor society, Phi Theta Kappa.

## ADDING/DROPPING FROM COURSES

Students may initiate the adding or dropping of a full-term course(s) through the first 5 days of a class. A full-term course may be dropped during the first week of a class (or through the first day of a modular class) through the same procedure except that the instructor's signature is not required. During the second week of a class, an add-drop may be initiated by the College for reasons of inappropriate



placement (over placement or under placement) in a course. Approval must be obtained from the Academic Dean, the student's advisor, the instructor, and the student for such an administrative add-drop. All add/drops must begin in the Student Development Center with an academic advisor.

Courses may be both added and dropped during the first 5 days of each semester (consult the College Calendar for deadlines) with no grade assigned to those courses dropped.

## WITHDRAWAL FROM A COURSE

Students may choose to withdraw from an individual course anytime following the add/drop period, and up to the date which is two-thirds (2/3) of the class sessions. Specific withdrawal dates can be found on the Academic Calendar.

## WITHDRAWAL FROM THE COLLEGE

Enrolled students who decide to leave the College must complete the student withdrawal procedure. They must report to the Student Development Center to complete the total withdrawal from college form and then follow the procedures outlined on the form to be sure their obligations to the College have been met. Students who have officially terminated enrollment at the College as of the start of classes but prior to the end of the semester will be assigned a grade of "W" for each course in which they are registered.

Students who do not complete the withdrawal procedure may be assigned grades of "F" in each course in which they are registered. Students who are receiving financial aid and are contemplating leaving the College should consult with the Financial Aid Office. As per federal financial aid regulations, financial aid recipients who stop attending classes, regardless of whether they follow the college withdrawal procedures, will have their financial aid awards recalculated according to the last date of attendance reported by the faculty.

## FINANCIAL AID

The College participates in a variety of loan, grant, scholarship, and part-time employment programs. A number of these programs are available to part-time students as well as full-time students. Any student receiving financial assistance must maintain satisfactory academic progress standards. FMCC, together with organizations associated with the College, sponsor additional financial aid and scholarship programs.

Informational brochures, application forms, and counseling are available from the Financial Aid Office located in the Student Welcome Center. All students are urged to contact this office for up-to-date and accurate information.

Office Hours: 8:00 a.m. – 5:00 p.m. Monday – Thursday  
8:00 a.m. – 4:00 p.m. Friday  
Summer Hours: 8:00 a.m. – 4:00 p.m. Monday – Thursday  
8:00 a.m. – 3:00 p.m. Friday

## ACADEMIC STANDARDS

In order to maintain matriculated status in a college degree or certificate program and receive all the benefits associated with it including eligibility for financial aid such as grants, loan, scholarships, VA educational benefits, and academic standing in one's chosen major, students must earn a minimum GPA (grade point average) and earn a minimum number of credits as outlined in the chart below. Academic progress is evaluated at the end of the Summer term, Fall and Spring semesters.

After attempting this many credits	6-11	12-23	24-35	36-47	48-59	60-71	72-83	84-91	92+
Earn at least this many credits	3	6	12	21	30	42	54	62	62
With a cumulative GPA of at least:	.50	.50	1.00	1.50	1.75	1.90	2.00	2.00	2.00
Completion Rate									100%

**Evaluation is based on credits attempted, earned, and grade point average. Earned credit includes credit earned at FMCC, transfer credit, advanced placement credit, experiential credit, and credit awarded through college level examination programs (CLEP).**

*Students not meeting the above chart requirements (based on cumulative data) will further be evaluated for current academic progress from a second evaluation as follows:*

- A full-time student (12 + hours) will be considered in good academic standing if the most recent semester average is at least 2.0 and at least 12 hours are passed.
- A part-time student will be considered in good academic standing if the most recent semester average is at least 2.0 and all courses for which the student is registered are passed.
- Students not meeting academic standards for the first time will be placed on academic warning for the following semester. Students will then have one semester to meet the academic standards. Students will be limited to 12 credits; exceptions will be considered by the Coordinator of Retention in consultation with the Dean of Academic Affairs. Students on warning who do not meet the academic standards at the conclusion of their warning semester, will be academically dismissed for two semesters (fall/spring, spring/fall). Students interested in returning to the College after two semesters must apply for admission and submit a request for academic probation.
- Students who were granted academic probation previously and failed to regain good academic standing will be dismissed for two consecutive semesters (fall/spring, spring/fall). Students interested in returning to the college after two semesters must apply for re-admission and if accepted, will be placed on academic probation.
- Academic probation is reserved for students with extraordinary and extenuating circumstances and or have stepped out for two semesters (fall/spring, spring/fall). Students who have received a warning or probation semester and who failed to meet standards again will be academically

dismissed for two semesters (fall/spring, spring/fall). Students interested in returning to the College after two semesters must apply for admission and submit a request for academic probation.

## ACADEMIC PROBATION PROCEDURES

Probation status is awarded to enable students to demonstrate that they can make academic progress toward their degree requirements. Students placed on academic probation will receive a letter notifying them that they are required to meet with their advisor to create an Academic Success Plan. Students will be limited to 12 credits and may be further limited as a condition of probation approval. Exceptions will be considered by the Registrar or the Dean of Student Affairs and the Dean of Academic Affairs.

Students who are academically dismissed with the ability to document extenuating and extraordinary circumstances impacting their academic performance may file an appeal with the Academic Dean's office. The academic appeal will then be reviewed by the Satisfactory Academic Progress Committee, whose members are appointed by the Dean of Academic Affairs. Students reinstated through this process will have matriculation restored and be placed on academic probation. Students on academic probation may have accompanying conditions placed on their enrollment.

### APPLICATION DEADLINES

Fall Semester: academic probation application and all required supporting documentation are due August 10th.

Spring Semester: academic probation application and all required supporting documentation are due January 10th.

### TREATMENT OF W, F, I, IP AND REPEAT GRADES

- Any course(s) dropped during the Add-Drop period during the first week of classes are not evaluated and do not appear on the academic transcript.
- Students who withdraw from courses after the Add-Drop period or totally withdraw from college after the start of classes receive "W" grades at the end of the semester.
- A student who does not attend and fails to officially withdraw from one or more courses is still enrolled in those courses and may be assigned grades of "F" unless the proper withdrawal procedure is followed.
- All courses with grades of "W" or "F" are evaluated for satisfactory academic progress regardless of withdrawal status.
- Incomplete grades ("I") and In-Progress grades ("IP") are also evaluated for satisfactory academic progress.
- Once the grade is completed, it will be used to determine satisfactory academic progress for future semesters. Repeat grades count in attempted hours based on multiple attempts; however, only one earned grade will count in the earned credit/GPA calculation. Please refer to the college catalog for more information on FMCC's grading system.

## FINANCIAL AID ELIGIBILITY

Financial aid eligibility requires that students meet the Financial Aid satisfactory academic progress standards and any additional academic standards based on the type of aid they are receiving (State and/or Federal). Students who have been academically/Financial Aid dismissed are not eligible for financial aid including grants, loans, scholarships, VA educational benefits, etc. Please refer to the college catalog for specific details.

*The ultimate responsibility for maintaining the satisfactory academic progress standard rests with the individual student. The College is dedicated to helping all students achieve their educational goals and offers various academic support resources to assist students. Students are advised to make full use of the resources available.*

## CAMPUS SMOKING POLICY

In compliance with New York's Clean Indoor Air Act in Educational Institutions, Fulton-Montgomery Community College will provide a safe and healthy environment, which is as tobacco free as possible for all students, employees, and visitors. Tobacco use is prohibited in all College buildings, as well as space that is leased, rented or utilized under other arrangements by the College. Legal tobacco use is permitted outside of College buildings only in designated smoking areas. Legal tobacco is defined as any type of tobacco product including, but not limited to, cigarettes (commercial, handmade, electronic), cigars, cigarillos, pipes, hookahs, oral tobacco (spit and spitless, smokeless, chew, snuff), vaping, or any other smoking material or device.

Legal Tobacco use is permitted only in the following designated areas:

- Smoking shelter located outside of the Southwest Corner Walkway between Evans Library and Staff Lot 4
- Smoking shelter located outside of the Evans Library/Theater in the Northwest Parking Lot 5 Area
- Smoking shelter located outside of the Lower O'Connell Hall in the Northwest corner between O'Connell Hall and Visual Arts & Communications Building

Smoking shelters have been installed at each of the designated smoking areas. Please do not litter by tossing cigarette butts and matches on the ground.

### **SMOKING FINES AND SANCTIONS**

Any person on campus who smokes outdoors on campus but outside of a designated smoking area will be ticketed and a \$25 fine will be imposed and placed on their tuition and fees bill.

Anyone found responsible for smoking inside any College building as defined above may be suspended and/or expelled from the College. See Policy Number 8020 at <https://www.fmcc.edu/about/about-FM/FM-board-of-trustees/board-policies/>.

### **SMOKING FINE APPEAL PROCEDURE**

Students who want to appeal a smoking violation must first obtain a Violation Citation Appeal Form. The forms are available at the following locations; Bursar Office, Public Safety Office, Student Involvement

Office or online at <http://www.fmcc.edu/studentlife/student-handbook/appeal-procedure/>. Complete the appeal form and submit all required documents as instructed.

## DEPARTMENT OF PUBLIC SAFETY

The Department of Public Safety Office is located in the Physical Education (PE) Building (P-144). The Department of Public Safety is staffed by Montgomery County Sheriff's Deputies, who are responsible for patrolling the campus, ensuring the safety and security of students, faculty, and staff. This is achieved by vehicle patrol, foot patrol, and video monitoring of the college and surrounding roadways and highways, the Office of Public Safety has general business hours of 8:00 a.m. – 4:00 p.m., Monday – Friday. To reach this office, please call 518-736-FMCC (3622), ext. 8405 or 518-620-1760.

## BLUE LIGHT SAFETY PHONES

The Campus is equipped with blue light safety phones in the event that a person on campus needs assistance during an emergency. Simply pick up the receiver of one of the phones and press the RED button. You will immediately be connected to the 911 Emergency Dispatcher. When connected, please communicate the following:

- a. Type of emergency (medical, fire, police) to the Dispatcher
- b. If reporting an injury, the injured person's name (if known) and nature of the injury
- c. The exact location of the emergency

Once this information is provided, the dispatcher will immediately send the necessary emergency response.

## PARKING REGULATIONS

Student Parking Permits are not required for any student who drives to the campus.

If a Parking Violation is received a Parking Permit fee will be placed on the student's tuition and fees bill and may be paid at the Bursar's Office only.

Students who will not be operating a motor vehicle are required to complete a waiver form to be submitted to the Bursar's Office to have the fee removed from their tuition and fee invoice. The parking fee waiver form is available at the Bursar's Office.

### **HANDICAPPED PARKING PERMITS**

A handicapped hangtag issued by city, town, or village and a student parking permit sticker will allow the student to park in any handicapped space on campus. Other students may also be granted the special hangtag permit through the Office of Accessibility (located in the Student Development Center) if eligible due to disability.

### **PARKING FEES & FINES**

A parking fee of \$5.00 per semester, per registered student vehicle, will be assessed on the student's tuition and fees bill. Any student who drives and parks on campus without a parking permit will be issued a parking violation and a \$25 fine will be imposed and placed on their tuition and fees bill. For the 2023-2024 academic year, we have waived the parking fee.

## PARKING FINE APPEAL PROCEDURE

Students who want to appeal a parking violation must first obtain a Violation Citation Appeal Form. The forms are available at the following locations; Bursar Office, Public Safety Office, Student Involvement Office or online at <http://www.fmcc.edu/studentlife/student-handbook/appeal-procedure/>. Complete the appeal form and submit all required documents as instructed.

## TRANSPORTATION

Transportation is provided by Gloversville Transit (Gloversville/Johnstown) and Brown Transportation (Amsterdam). A semester bus pass and 10-ride booklets are available for students, faculty and staff to purchase. See Bursar's Office for fees and details. <https://www.fmcc.edu/studentlife/student-services/bus-service/>

## IMMUNIZATION AGAINST MEASLES, MUMPS AND RUBELLA

N.Y. Public Health Law § 2165 REQUIRES all students attending college in New York State to provide documentation by a health practitioner of immunity against measles, mumps and rubella. ALL STUDENTS REGISTERED FOR 6 OR MORE CREDITS must comply.

The only exemptions from this requirement are for:

- a) Those with documentation that they were born BEFORE January 1, 1957 – OR –
- b) Those with acceptable documentation from a NYS licensed physician that one or more specific immunizations would pose a serious and specific health hazard. Immunization that do not pose a health hazard must be completed – OR –
- c) Those with acceptable documentation that such immunization is in contradiction with the sincere and genuine beliefs of their religion.

All students registering for six or more credits at Fulton-Montgomery Community College must submit at the time of their registration or within 30 days of the beginning of classes the required medical exemption from immunization documentation from a NYS licensed physician OR documentation of an age-based or religious-based exemption. Those **NOT** providing an exemption must document the following:

- For MEASLES: two doses of measles vaccine given after 1967: the first dose on or after the first birthday and the second on or after 15 months of age, **OR** NYS licensed physician documented history of disease, **OR** serologic evidence of immunity – **AND** –
- For RUBELLA: one dose of rubella vaccine on or after the first birthday, **OR** serologic evidence of immunity – **AND** –
- For MUMPS: one dose of mumps vaccine on or after the first birthday, **OR** NYS licensed physician documented history of disease, **OR** serologic evidence of immunity. Students not complying with this law can be withdrawn from all courses. Refunds will **NOT** be issued for withdrawals after the College's normal refund period. Immunization records will be stored as part of each student's file in the Registrar's Office.

MENINGITIS INFORMATION – NY Public Health Law § 2167 requires notification to all students registered for six or more hours about the risks of meningococcal meningitis, its symptoms and vaccination

options. Although a vaccine is not mandatory, all students who are enrolled for six or more credit hours must sign a Meningitis Information Response Form acknowledging that they have either obtained:

- A vaccine record indicating at least 1 dose of meningococcal ACWY vaccine within the last 5 years or a complete 2- or 3-dose series of MenB without a response form; OR
- A signed response form with a vaccine record (If a student submits a response form selecting this option, a vaccine record must be attached); OR
- A signed response form indicating that the student will obtain meningococcal vaccine within 30 days; OR
- A signed response form indicating that the student will not obtain immunization against meningococcal disease.

If the student has not received meningococcal vaccine within the past 5 years, then s/he must submit the signed response form. Students under age 18 must have a parent or a guardian sign the response form. Forms and specific information from the state about the Meningococcal disease are available at the Registrar's office in the Student Welcome Center.

Information on suspected and/or confirmed cases of any communicable disease must be immediately reported to the Dean of Student Affairs who will report them to the Public Health Offices in Fulton and Montgomery counties. In case of an outbreak of these diseases students not immunized for any reason may be excluded from the campus.

If you need a copy of your immunization record from FMCC the Immunization Request Form is available on the FMCC website, under Academics. <http://www.fmcc.edu/academics/registrar-office/transcript-immunization-requests/>.

## CAMPUS FACILITIES

The ADMINISTRATIVE SERVICES BUILDING located in the Southeast annex of the HFM BOCES facility houses the offices of the Director of Business Affairs, the Business Affairs Department, and the Offices of Human Resources. An "F" designator precedes offices and rooms.

The ALLEN HOUSE provides a beautiful setting for community events in the Rick & Mary Frasier Event Room. Meetings can also be held in the Carl S. Salmon Jr. Board Room. It also houses the offices of the President and the FMCC Foundation. An "AH" designator precedes offices and rooms.

A CHILD CARE CENTER is housed in its own building at the rear of the O'Connell Hall; next to the sports fields. The College and the Fulton County YMCA operate the center jointly to meet the childcare needs of students, staff and community members.

The COMMONS/EVANS LIBRARY building is a three-floor complex which houses The Commons on the main floor and the Evans Library services on the upper level. The Commons is a welcoming open space for students to get help with social and academic support services including the Student Involvement Office, The Raider's Food Pantry, the Writing Center & The STEM tutoring corner as well as alternative testing services and TRIO/ EOP program Services. The Kenneth R. Dorn Regional History Study Room, the Information Literacy Classroom, an Academic Computer Room, Silent Study and Group Study areas, the Career and Transfer Services corner, and various study areas and lounges are on the upper level. Charging stations, lockers for students and comfortable seating are located throughout the top two

floors. The lower level is occupied by the Graphic Arts Department, Early Childhood Education classrooms, and additional classrooms. An “L” designator precedes offices and rooms.

O’CONNELL HALL contains most of the College’s classrooms, laboratories and several large lecture halls. The Dean for Academic Affairs and many faculty offices are also located in this building, as well as the Campus Information Technology department. A “C” designator precedes offices and rooms.

The PARKING LOTS on campus provide ample space for all faculty, staff, students and visitors. Within our parking lots we have two Electric Vehicle Charging Stations, one in Faculty/Staff Lot 3 behind the Student Welcome Center and one in Student Lot A.

The PHYSICAL EDUCATION BUILDING contains three gymnasiums, Raiders Cove, a smart classroom and the Fitness Center. The Athletic Director/Department and Public Safety Office is headquartered in the PE Building. A “P” designator precedes offices and rooms.

The STUDENT UNION currently houses the Large Lounge, the X-Kitchen Food Service, the Student Union Dining Area, and the Raider Trader College Store on the first floor. The lower level is occupied by the PTECH Program. A “U” designator precedes offices and rooms.

The STUDENT WELCOME CENTER houses the offices of the Dean of Student Affairs, Admissions, Financial Aid, and Bursar. An “A” designator precedes offices and rooms.

The VISUAL ARTS AND COMMUNICATIONS BUILDING contains the Rao Theater, the Perella Art Gallery, art studios, sculpture/theater workshop, media studios, the Student Development Center offices, and Registrar. Rooms are preceded by an “N” designation.

## GLOSSARY

College life has its own traditions and unique procedures, and it has its own language as well. Following is a brief list of terms that are commonly used:

**Academic record** – provided by the college, this document lists all courses attempted and completed, as well as other academic information.

**Academic year** – usually refers to the fall and spring semesters combined (September - May).

**Associates degree** – degree earned after completing 60-70 credits, or 15-20 college level courses in a specific subject area.

**A.A.** – Associates of Arts

**A.S.** – Associates of Science

**A.A.S.** – Associates of Applied Science

**Audit** – to take a course for no credit/no grade.

**Common Hours** – times during the week when no classes are held. These hours are used for student activities, and for SSA, faculty, committee, and club meetings. At FMCC, common hours are Monday



noon – 1 p.m., Wednesday noon – 1 p.m. and Friday noon to 1 p.m. and 3:00 – 4:00 pm; there is also a common hour on Thursday from 12:30 – 2:00 p.m.

**Course Load** – the number of courses or credit hours taken during a given semester.

**Credit (vs. non-credit)** - credits are assigned to a course based on how many hours a week it meets. (i.e. a 3 credit course meets for 3 hour a week). A specific number of credits are required to graduate. Non-credit courses do not count toward a degree but offer training in a specific subject area.

**Credit Hours** – the number of credits associated with a course: sometimes, but not always equal to weekly clock hours spent in class. These are also called semester hours.

**Curriculum** - the subject and content area that is taught in a specific course or major.

**Developmental/remedial** – pre-college level course that may be required as indicated by the placement test. These courses do not apply toward a degree.

**Elective** – a course of the student's choice; not a required course.

**FAFSA** – stands for "Free Application for Federal Student Aid". This form is a financial "needs assessment" and is required to be completed by the student to determine eligibility for grants and loans from the state or federal government. This can be completed at <http://www.fafsa.gov>.

**Faculty Office Hours** – Faculty members maintain office hours so that they can be available to confer with students. Instructors welcome the opportunity to discuss aspects of a course or individual problems with students outside the classroom. These contacts add richness to a student's intellectual life and help the student and faculty member come to know each other better.

**Financial Aid** – money available to students to assist them with paying the costs of attending college; may be awarded on the basis of financial need or scholarship.

**General Education Requirements** – In order to receive an AA or AS degree, students are required to fulfill at least 21 credits hours or seven of the ten categories of the SUNY General Education requirements. Please see the FMCC catalog or stop into the Student Development Center for a list.

**Laboratory** – a classroom opportunity to work with theories, concepts, etc. learned in lecture, generally smaller in size than a lecture.

**Lecture** – classes of varying size devoted almost exclusively to the instructor addressing the class.

**Matriculation** – a set of services provided to all students as a means of ensuring their academic success, including Admission, Assessment, Orientation, and Counseling. It is legally defined as an agreement between the college and its students.

**Prerequisite** – a course that must be completed prior to taking another course, i.e. General Psychology is a prerequisite for Developmental Psychology.

**Registration** – the process through which a student enrolls in a course.

**Section** – a unique set of days and time of the day when a course is offered (as opposed to other days and times of the day when the same course may be offered during the same semester); the same instructor may teach several sections of the same course.

**Semester** – the scheduled time period in which a course is completed.

**Syllabus** - an outline of expectations, assignments, and academic goals of a course.

**Transfer program** – a course of study that prepares a student to transfer to a 4-year school after completing an Associate’s degree.

**Transcript** – an official list of coursework completed, and final grades earned at a high school or college.

## APPENDIX A - PROCEDURE TO FILE A COMPLAINT

The following three-step procedure seeks to provide for an orderly review of complaints within the administrative structure of the College. It seeks to correct unsatisfactory situations perceived by any member of the College Community caused by inaccuracies in records, unfair practices, illegal discrimination, errors, omissions, or oversights. It does not change the remedies available to parties by law nor does it substitute for grievance procedures contained in employment agreements, or complaint procedures set forth elsewhere in this handbook.

In particular, this complaint procedure shall not apply to:

1. Complaints of sexual harassment, which may be addressed pursuant to FMCC Policy Number 4010, available at <https://www.fmcc.edu/about/about-FM/FM-board-of-trustees/board-policies/>
2. Complaints of sexual misconduct, including sexual assault, stalking, or relationship violence, which may be addressed pursuant to Appendix H of this handbook and FMCC Policy Number 4020, available at <https://www.fmcc.edu/about/about-FM/FM-board-of-trustees/board-policies/>
3. Complaints regarding any other violation of the Code of Conduct, which may be addressed pursuant to Appendix C of this handbook; and
4. Complaints or grievances regarding any academic sanctions for a violation of the Academic Integrity Policy which may be addressed pursuant to Appendix F of this handbook.

### IF YOU HAVE A COMPLAINT

1. Go directly to the office, department or staff member of the College who appears to be the source of the problem and state your complaint. It is expected that the majority of complaints will be settled at this informal level by the immediate correction of errors or by the sharing of additional explanatory information.

### IF YOUR COMPLAINT IS NOT RESOLVED

2. Go to the Dean of Academic Affairs office located in O’Connell Hall, C-207. The Dean of Academic Affairs will record the complaint in writing, investigate it, and return your complaint

with the findings or any action taken. Normally, you should receive the Dean of Academic Affairs' reply within (10) ten days of lodging your complaint.

### **SHOULD THIS NOT SETTLE YOUR COMPLAINT SATISFACTORILY**

3. Make an appointment to speak with the President and make your complaint. The President will appoint a committee, chaired by an Administrator who did not investigate in Step 2, composed of at least three (3) members from various constituencies empowered to investigate your complaint with you, hear statements, view documents, visit sites, etc., to prepare a report of findings and recommendations to the President in the particular matter of your complaint. You will be expected to meet with the committee throughout its investigation. You may question statements made to the committee and make statements of your own concerning them or the documents or sites or other matters contemplated by the committee. You will be informed of the general nature of the report of findings and recommendations submitted by the committee to the President and will receive a written summary of the decision by the President in the matter.
4. Normally, the committee will meet within ten days of your meeting with the President. You will be informed of the findings of the committee and the President's decision within three days of the time the findings are submitted.

## **APPENDIX B - FAMILY EDUCATION RIGHTS AND PRIVACY ACT**

This is a summary of the Policy on Access to Educational Records – Compliance with the Family Educational Rights and Privacy Act. The College's full statement is available from the Registrar's Office. Fulton-Montgomery Community College complies with the requirements of the Federal Family Educational Rights and Privacy Act (FERPA) and implementing regulations concerning access to and confidentiality of students' educational and related records.

The College affords all the rights under this law to all students regardless of age, except that student records may be disclosed to parents of students who are considered dependents according to Federal Internal Revenue Service regulations. In general, no one shall have access to nor will the institution disclose any information from current or past students' educational records without written consent of the students except to personnel within the College, to persons or organizations providing students financial aid, to accrediting agencies carrying out their accreditation function, to persons in compliance with a judicial order, and to persons in an emergency when a College official determines it is necessary to do so to protect the health or safety of students or other persons.

Disclosure of students records to personnel within the College is limited to school officials with legitimate educational interests. A school official is a person employed by the College in an administrative, supervisory, academic or research, or support staff position (including alumni department staff and law enforcement unit personnel); a person or company with whom the College has contracted (such as an attorney, auditor, or collection agent); a person serving on the Board of Trustees; or a student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks. A school official has a legitimate interest if the official needs to review an educational record in order to fulfill his or her professional responsibility to the College.

The College, at its discretion, may provide Directory Information in accordance with provisions of FERPA, to include: name, local and permanent address, electronic mail address, telephone numbers, dates of attendance, enrollment status (full-time/part-time), previous institutions attended, major field of study, academic level (year in school), participation in officially recognized activities/sports, physical factors of student athletes (height and weight), date and place of birth. Students currently enrolled can object to release of certain categories of Directory Information by notifying in writing the Registrar's Office at the College within fourteen (14) days following the first day of classes. The failure of any student to specifically object to the release of certain categories of Directory Information within the time indicated will be interpreted as approval. The College will honor requests for non-disclosure for only one academic year. Authorization to withhold Directory Information must be filed annually with the Registrar's Office.

The College is permitted under FERPA to disclose to a parent of a student the student's violation of any Federal, State, or local law, or of any rule or policy of the institution, governing use of or possession of alcohol or a controlled substance, if the institution determines that the student has committed a disciplinary violation with respect to that use or possession AND the student is under 21 at the time of the disclosure to the parent.

FERPA provides students with the right to inspect and review information contained in their educational records, to challenge the contents of their educational records, to have a hearing if the outcome of the challenge is unsatisfactory, and to submit explanatory statements for inclusion in their files if they feel the decision of the hearing is unacceptable. The initial request to review records should be directed to the office or department where the record is housed. Official records are considered those held in the Registrar's Office. Records are maintained and kept in accordance with the provisions of New York State's document "Records Retention and Disposition – Schedule MI-1, see Section 185.14, 8 N.Y.C.R.R. (Appendix K), available at <https://govt.westlaw.com/nycrr/Index?bhcp=1&transitionType=Default&contextData=%28sc.Default%29>.

The College may require written requests at its discretion to review certain records, in which case the College will respond in writing to such requests within thirty (30) days. Students may have copies made of their records with the exception of official academic records for which there has been placed a "hold" for financial or disciplinary reasons. These copies will be made at the student's expense at the prevailing rate listed in the annual fee schedule.

Students may NOT inspect and review financial information supplied by their parents/legal guardian, confidential letters of recommendation associated with admission to a program, transfer or employment and when they have waived their right of inspection and review; records containing information about more than one student. In the last situation the College will provide only that information pertinent to the inquiring student with the following exception: The disclosure of the final results of a student disciplinary proceeding against the alleged perpetrator of a crime of violence or a non-forcible sex offense may be disclosed to the victim.

Students who believe their educational records contain information that is recorded inaccurately or in a way that misleads or is otherwise in violation of their privacy or other rights may discuss their problems informally with the Registrar, in the case of official academic records, or the appropriate Dean in the case of other offices' files. If the decision is in agreement with the student request, the appropriate

records will be amended. If not, the student will be notified within thirty (30) days that the records will not be amended. The student will also be informed of his/her right to a hearing.

A full description of procedures on hearings is available from the Registrar.

## APPENDIX C – CODE OF CONDUCT

### I. Introduction

Fulton-Montgomery Community College, a Community College of the State University of New York, has the right and authority to protect its educational purpose through the setting of standards of student conduct. The College will treat students fairly and equally within this Code of Conduct.

The College has established standards of student conduct, which includes an investigation process and a disciplinary process, including appeals, where applicable.

When students become members of the Fulton-Montgomery Community College (FMCC) community they are expected to abide by the College's rules, regulations, and behavioral standards. These standards are reasonable and are based on the concept of responsible citizenship. The College does not attempt to regulate the lives or activities of students except to assure its ability to accomplish its educational mission and protect the health, safety, and security of members of its community.

FMCC has adopted a civility statement as follows:

*FMCC is committed to fostering an environment of civility. All members of the FMCC community and visitors have the right to experience and the responsibility to create and maintain an environment of mutual respect and support that is civil in all aspects of human relations. Civility facilitates professional growth and achievement and promotes an environment where each person can reach his or her full potential.*

By choosing to attend FMCC, all student members of the College are expected to uphold the standards of this community. This includes students who are matriculated, enrolled or registered in any academic program or activity. Visitors to the campus and persons who were students when they may have allegedly violated the Code of Conduct are also included.

These procedures have been developed to articulate the College's behavioral standards and to ensure procedural fairness to all students. The disciplinary process is intended to be educational. The implementation of disciplinary procedures may vary in formality depending upon the gravity and nature of the alleged offense. In addition, the sanctions applied will fall within a range based upon the gravity of the particular offense and other individual, organizational or situational circumstances.

It is important to note that the threshold utilized for determining responsibility for alleged violations will be the preponderance of the evidence. This means that the designated administrator or hearing board will weigh all evidence available about an alleged incident and determine whether a violation of the Code of Conduct is more likely than not to have occurred. If the answer is affirmative, then the student(s) will be found responsible for the Code of Conduct violation.

## II. Students' Rights and Responsibilities

It is the responsibility of each student to become familiar with all of the College's rules and regulations as set forth in this document.

Fulton-Montgomery Community College, a community college of the State University of New York, does not discriminate against any employee, applicant for employment, intern, whether paid or unpaid, contractor, student, or applicant for admission or other members of the college community (including but not limited to vendors, visitor, and guests) based on an individual's race, color, national origin, religion, creed, age, disability, sex, gender identification, gender expression, sexual orientation, self-identified or perceived sex, the status of being transgender, familial status, pregnancy, predisposing genetic characteristics, military status, veteran status, domestic violence victim status, criminal conviction or any other category protected by law. The College adheres to all federal and state laws prohibiting discrimination and sexual harassment in public institutions of higher education.

The College prohibits conduct by any employee or any student who disrupts or interferes with another's work performance or educational experience, or who creates an intimidating, offensive, or hostile work or educational environment due to discrimination based on protected status or sexual harassment. In keeping with this goal, the College is committed to educate employees in the recognition and prevention of workplace and educational discrimination and sexual harassment. Improper conduct may violate the College's policy, when it is more serious than petty slights or trivial inconveniences.

Students are expected to be present and on time for all scheduled classes and laboratories. In cases where a student is tardy or absent, the student is responsible for materials or assignment presented in their absence. The degree to which attendance affects a student's final grade will be determined by the individual instructor and stated in each course syllabus.

College tuition, fees, and all costs associated with attending college are the responsibility of the student. Students who incur a debt to the College will be responsible for all collections and attorney's fees associated with the collection of that debt, including collection costs.

It is the responsibility of all students of the College to adhere to the letter and spirit of duly enacted College policies, rules, and regulations. Students who violate said policies, rules, and regulations are likely to face disciplinary action.

Students should be free to examine and discuss all questions of interest to them and to express opinions publicly and privately. They should always be free to support causes, by orderly means, which do not disrupt the regular and essential operations of the College. See Policy Number 3010 at <http://www.fmcc.edu/about/about-FM/FM-board-of-trustees/board-policies/>.

Students have the right to affiliate with recognized student organizations and engage in activities, provided those activities adhere to College policies and do not jeopardize the health, safety, or welfare of members of the College community.

## III. College Responsibilities

The College shall handle disciplinary matters in an expeditious manner.

The College will ensure procedural fairness in all its disciplinary actions.

Acts of retaliation (including coercion, intimidation, threats, or any other action) against any student making a complaint will not be tolerated. This is meant to prevent the malicious use of the Code of Conduct against another student for the purpose of re-victimization.

The authority to discipline students for violations of College policies, rules, and regulations is assigned by the President of FMCC to the Dean of Student Affairs for implementation by the Dean of Student Affairs or by his/her designee.

A student may be accountable to both the College and criminal or civil authorities for acts that violate the law as well as the Code of Conduct. Disciplinary action at the College will normally proceed during the pending criminal proceedings and will not be subject to challenge on the grounds that pending criminal charges involving the same incident have been postponed, dismissed, or reduced. FMCC reserves the right to apply its own standard and procedure to reach its own determination on violations of this code unaffected by the standard, procedure or outcome of any civil or criminal proceedings.

#### IV. Definitions

- A. The term “crime of violence” means murder, manslaughter, rape, fondling, incest, statutory rape, robbery, aggravated assault, burglary, motor vehicle theft, and arson, as defined below.
  - 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.
  - Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
  - Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - Motor Vehicle Theft: The theft or attempted theft of a motor vehicle.

- 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.
  - 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.
  - Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent. Under New York law, the age of consent is 17 years old. See New York State Penal Law Article 130.
- B. The term “member of the College community” includes any person who is a student, faculty member, FMCC official or any person employed by FMCC. A person’s status in a particular situation shall be determined by the Dean of Student Affairs.
- C. The term “respondent” means a student charged with an alleged violation of the Code of Conduct.
- D. The term “FMCC premises” includes all land, buildings, facilities, vehicles, and other property used, or in the possession of, or owned or controlled by FMCC (including adjacent streets and sidewalks.)
- E. The term “Sexual Misconduct” means Nonconsensual Sexual Activity, Sexual Assault, Relationship Violence, and Stalking, as those terms are defined in FMCC’s Policy on Sexual Misconduct Prevention and Response, set forth in Appendix H of this handbook and Policy Number 4020, available at <https://www.fmcc.edu/about/about-FM/FM-board-of-trustees/board-policies/>
- F. The term “Student Life Hearing Board” shall mean a group, designated by the Dean of Student Affairs, which shall consist of a hearing officer, four faculty and/or staff members and three students who volunteer to serve on the Board.
- G. The term “Legal Tobacco Use” shall mean any type of tobacco product, including but not limited to cigarettes (commercial, handmade, electronic), cigars, cigarillos, pipes, hookahs, oral tobacco (spit and spitless, smokeless, chew, snuff), vaping, or other smoking materials or devices.

## V. Jurisdiction

The Code of Conduct shall apply to conduct that occurs on FMCC premises and at College-sponsored events, both on and off campus. The Code of Conduct may also apply to the off campus behavior of students, including those who are participating in study abroad programs.

The College may also address off campus behavior if the College determines that the behavior, or the continued presence of the student, impairs, obstructs, interferes with or adversely affects the mission, processes or functions of the College. The College will also have jurisdiction over Sexual Misconduct that occurs on or off campus, or while students are studying abroad.



## VI. Violations

Disciplinary action may be taken against students for the following violations of College policies, rules, and regulations. A violation occurs when a preponderance of the evidence supports a finding of a student having committed actual misconduct, attempting to commit misconduct but not completing the violation (i.e. offering to sell illegal substances to an individual who does not buy them or trying to steal an item but stopping or being stopped before removing the item from its location), assisting or convincing another person to commit misconduct, and misconduct or attempted misconduct by a student's guest.

1. All forms of academic dishonesty, including cheating, fabrication, facilitating academic dishonesty such as purchasing or sale of research papers, and plagiarism. Students charged with this violation will be subject to the procedures outlined in the separate Academic Integrity Policy set forth in Appendix F of this handbook and available at <http://www.fmcc.edu/academics/programs/academic-integrity-policy/>.
2. Intentionally furnishing false information to the College or to a College official verbally or in writing.
3. Forgery, alteration, or unauthorized use of any College documents or instruments of identification.
4. Intention or Threat of (Bodily) Harm/Abuse, including but not limited to:
  - a. Assault and/or physical abuse.
  - b. Threats, intimidation, harassment or verbal abuse.
  - c. Bullying or cyber-bullying.
5. Unlawful harassment, which includes any single or series of, gesture[s], written, verbal or physical act[s], or electronic communication[s] that is reasonably perceived as being motivated by an actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory disability, or by any other protected characteristic, and that a reasonable person should have known will have the effect of:
  - Physically or emotionally harming a student, damaging the student's property, or placing a student in reasonable fear of such harm, or
  - Insulting or demeaning any student or group of students in such a way as to cause disruption in or interference with the orderly operation of the College, or
  - Creating a hostile educational environment for the student by severely or pervasively infringing on the rights of the student and interfering with a student's education.
6. Intentionally or recklessly interfering with official activities at the College including College sponsored activities, including, but not limited to: athletic events, community events, invited speakers, studying, teaching, or fire, police, or emergency services.
7. Willful defamation of a member of the academic community.
8. Causing damage to College premises or property. Misuse of, or tampering with, any electrical system, wiring, telephone service, fire safety equipment or other security devices.
9. Any "crime of violence," as defined above.
10. Other violations of local, state, or federal law on College property, or off campus, when such violation has an adverse effect upon individual members of the College community or otherwise prevents other College members from engaging in the pursuit of their duties, mission or education objectives.
11. Disorderly conduct as defined by the laws of the State of New York.
12. Other conduct which threatens or endangers the health or safety of any person.

13. Failure or refusal to abide by or comply with directives issued by representatives of the College when they are acting within the scope of their authority.
14. Possession or use of weapons of any kind, including but not limited to firearms, fireworks, incendiary devices or other combustible materials.
15. Any action by a student on or off campus that, in the judgment of College officials, has an adverse effect on the College.
16. The manufacture, possession, use, sale, distribution, or sharing of any controlled substance (or non-prescriptive drug or prescription not for the user) or drug paraphernalia in violation of federal, state, or municipal laws or College Policy. See Policy Number 3400 at <http://www.fmcc.edu/about/about-FM/FM-board-of-trustees/board-policies/>.
17. Possession, sale, distribution or consumption of alcoholic beverages within College premises, including residential facilities, at any College-sponsored event or activity, regardless of location, and any other location where a student is present to carry out his/her education, including internships, work-study programs, and study abroad. See Policy Number 3400 at <http://www.fmcc.edu/about/about-FM/FM-board-of-trustees/board-policies/>.
18. Legal tobacco use in any College buildings, as well as space that is leased, rented or utilized under other arrangements by the College, is not permitted, or any outdoor space on campus other than a designated smoking area.
19. Theft of College or personal property, removing or transferring College equipment or furniture from one location to another without official authorization, or possession of stolen property.
20. Unauthorized entry into or use of any College building, space or office.
21. Violation of published rules recognized student organizations.
22. Intentionally initiating or causing to be initiated any false report, warning, threat of fire, explosion, or other emergency.
23. Abuse of the Student Conduct Process including, but not limited to falsification, distortion or misrepresentation of information before a hearing officer and/ or members of the Student Life Hearing Board; disruption or interference of a Hearing Board or administrative hearing; attempting to discourage an individual's proper participation in the student conduct process; attempting to influence another person to commit an abuse of the student conduct process.
24. Computer misuse, including but not limited to hardware theft or fraud, duplicating copy protected software, downloading copyrighted material, unauthorized access, subverting restrictions, and plagiarizing class programs. See Policy Number 2070 at <http://www.fmcc.edu/about/about-FM/FM-board-of-trustees/board-policies/>.
25. Sexual Misconduct. It is a violation of the Code of Conduct to engage in an incident of sexual misconduct, as defined above and in FMCC's Policy on Sexual Misconduct Prevention and Response, set forth in Appendix H and Policy Number 4020, available at <http://www.fmcc.edu/about/about-FM/FM-board-of-trustees/board-policies/>. However, the Student Conduct Procedure outlined below DOES NOT apply to any disciplinary cases that involve allegations of sexual misconduct. Instead, for cases involving sexual misconduct, the procedure outlined in FMCC's Policy on Sexual Misconduct Prevention and Response, set forth in Appendix H and Policy Number 4020, available at <http://www.fmcc.edu/about/about-FM/FM-board-of-trustees/board-policies/>, applies instead.
26. Nonconsensual dissemination or publication of an intimate image, as defined in N.Y. Penal Law § 245.15.

The range of sanctions assigned to students found responsible for a violation of the above standards of conduct are: Official Warning, Campus Life Probation, Disciplinary Probation, Interim Suspension, Suspension from the College, and/or Expulsion from the College. Other sanctions may include Educational

Sanctions, Order of No Contact, Administrative Relocation, and/or Restitution. Refer to section VIII for Sanctions definitions.

## VII. Classroom Misconduct

### A. Expected Classroom Behaviors

In addition to the above Code of Conduct violations, the following applies specifically to expected classroom behaviors:

1. Students must plan to arrive to class on time and stay for the entire class period (or until dismissed). Random arrivals and exits are disrespectful and distracting to the learning process.
2. Students must not participate in behaviors that are disruptive to the learning process, including but not limited to, talking in class while the faculty member or other students are speaking; use of offensive language; creating distractions or disturbances in the classroom environment, or moving about in the classroom.
3. Students are not permitted to use cell phones or other electronic devices that disrupt the learning process. The use of personal laptop computers, phone, etc. may be acceptable in some classes, however they must be used only for note-taking or activities in direct support of the course objectives. Faculty members have the right to ask students to shut down any electronic devices.

### B. Sanctions for Classroom Misconduct

Students who commit acts of classroom misconduct (other than Code of Conduct Violations listed under section VI) are subject to classroom and College sanctions as follows:

1. Verbal warning from the faculty member to the student that the behavior exhibited must stop.
2. If classroom misconduct occurs again, notification from faculty member may be made to the Dean for Academic Affairs. Students must then meet with the Dean for Academic Affairs prior to returning to class. Any graded work missed prior to returning to class may result in a grade of "0".
3. Instances of continued misconduct will be referred by the Dean of Academic Affairs to the Dean of Student Affairs.
4. Students must then meet with the Dean of Student Affairs to determine eligibility of returning to class. Any graded work missed prior to returning to class may result in a grade of "0". If it is determined that the student will be expelled from class, the student will receive a grade of "F" for the class. In addition, if due to time missed in class results in the student's inability to earn a grade higher than a grade of "F", the student will not be allowed to return to class and will receive a grade of "F" for the class.

Classroom behaviors that fall under the Code of Conduct Violations set forth in section VI will result in immediate removal from class and referral to the Dean of Student Affairs.

## VIII. Persona Non Grata Status

If a former student or an unaffiliated person, including a visitor to the College campus, commits an act that results in arrest, creates a public safety issue, or violates the Code of Conduct, the Dean of Student Affairs reserves the right to restrict or remove that person's access to campus. This decision will be made in consultation with the Office of Public Safety regarding the level and duration of restricted access. The minimum length of restriction will be one calendar year. Violations of this restriction will result in an extension of the restriction. In all cases, a Trespass Warning will be issued and remain active for the duration of the restricted access period.

Should this former student or unaffiliated person wish to apply for admission/re-admission to the College at a later date, the Dean of Student Affairs will render a decision on readmission to the College.

## IX. Initiation of Student Disciplinary Procedures

IMPORTANT: Sections IX to XIII of this Code of Conduct DO NOT apply to any disciplinary cases that involve allegations of sexual misconduct, as defined above, including sexual assault, stalking and relationship violence. For cases involving sexual misconduct, the procedure outlined in FMCC's Policy on Sexual Misconduct Prevention and Response, set forth in Appendix H and available at <http://www.fmcc.edu/about/about-FM/FM-board-of-trustees/board-policies/>, applies instead. Please refer to FMCC's Policy on Sexual Misconduct Prevention and Response for any cases involving sexual misconduct. If you have any questions about whether FMCC's Policy on Sexual Misconduct Prevention and Response applies, please consult with the Title IX Coordinator, Arlene Spencer, Student Welcome Center, A111, 518-736-3622 ext. 8100 or email [arlene.spencer@fmcc.edu](mailto:arlene.spencer@fmcc.edu).

### A. Reporting Violations

Allegations of Code of Conduct violations may be brought by any member of the College community or by the College itself. When allegations are brought against a student for violation of the Code of Conduct, the following procedures will be in effect:

1. Any alleged violation should be reported to the Office of Public Safety as soon as possible after an incident takes place.
2. All alleged violations must be submitted to the Dean of Student Affairs utilizing the Incident Reporting System.

### B. Student Conduct Charges

1. The Dean of Student Affairs will respond promptly to any request to file charges. The Dean of Student Affairs will also promptly respond whenever he or she has knowledge that a violation of the Code of Conduct may have occurred.

The Dean of Student Affairs will determine:

- whether or not the alleged misconduct is within the purview of the Code of Conduct;
- whether or not the alleged misconduct includes an allegation of Sexual Misconduct, and should be adjudicated under the procedure outlined in FMCC's Policy on Sexual Misconduct Prevention and Response, rather than the process outlined below;
- whether to file charges; and
- if charges are filed, the appropriate individual or body to hear the charges.

2. All charges shall be presented in written form to the student alleged to have violated the Code of Conduct. The student will be sent a letter of notification to their FMCC email account as well as a written letter with signature sign off to ensure delivery.
3. If any disciplinary action is pending against a student, degrees, grade reports, and transcripts will not be issued until the matter is resolved. Any student who withdraws from the College while student conduct charges are pending shall not be permitted to re-enroll until the pending charges are resolved.

#### C. Accommodation Statement

Reasonable accommodations in connection with the student conduct process are available for participants with documented disabilities. To request disability-related accommodations that will facilitate your full participation in the student conduct process, please contact the Office of Accessibility Services at: 518-736-3622 ext. 8145.

#### X. Administrator's Determination

If the Dean of Student Affairs determines that the charged conduct, even if true, is not serious enough to warrant suspension from the College, or expulsion from the College, the student is entitled to written notice of the charged conduct (as set forth in section IX (B)) and an informal opportunity to be heard by the Administrator.

The written notice of charges will advise the student of the date, time and place for a meeting with the designated Administrator, at which time the student may present his/her response to the charged conduct, and the Administrator shall present any evidence gathered by in connection with an investigation.

Upon completion of an investigation and after affording the respondent an opportunity to be heard and consideration of all evidence, the respondent will receive a letter to notify her or him of the outcome, including any finding of responsibility, and resulting sanction(s). If the respondent is found responsible for a violation of the Code of Conduct, the respondent's cumulative conduct history – as well as the sanctions assessed to other students found responsible for similar policy violations in similar cases – will be considered when determining sanctions.

There will be no appeal from the Administrator's determination with respect to either responsibility for the charged conduct, or any resulting sanctions.

#### XI. The Student Life Hearing Board Hearing and Determination

When the charged conduct, if true, may result in, suspension from the College, or expulsion from the College, the Dean of Student Affairs will convene a Student Life Hearing Board to conduct a hearing on the charge(s).

The Student Life Hearing Board's determination shall be based on the preponderance of the evidence presented regarding the alleged violation(s). The question before the Student Life Hearing Board will be whether it is more likely than not that the respondent violated the Code of Conduct. The Student Life Hearing Board will make the determination of whether a student is responsible or not responsible for violating the Code of Conduct and if so, the sanctions to be imposed.

A. Interim Suspension

In certain circumstances, the Dean of Student Affairs, or a designee, may impose a College suspension prior to any Student Life Hearing Board hearing on the charge(s).

1. Interim suspension may be imposed only: (a) to ensure the immediate safety and well-being of members of FMCC community or preservation of FMCC property; or (b) to ensure the student's own immediate physical or emotional safety and well-being; or (c) if the student poses an immediate threat of disruption of, or interference with, the normal operations of FMCC.
2. During the interim suspension, the student shall be denied access to some or all parts of the campus (including classes) and/or some or all other College activities or privileges for which the student might otherwise be eligible, as the Dean of Student Affairs or his or her designee may determine to be appropriate.
3. The student shall receive a written notice of interim suspension which shall specify the scope of his or her restrictions or exclusions pending the outcome of the hearing.

B. Pre-Hearing

The notice of charges that is sent to the respondent pursuant to section IX (B) shall contain the following additional information:

1. the time, date and location of the hearing, which shall not be less than five (5) nor more than fifteen (15) days after date of notification;
2. the right to have an eye-witnesses present; students must provide notice to the Dean of Student Affairs of their intention to bring an eye-witness at least 72 hours prior to the time of the hearing;
3. the right to have a non-attorney advisor present;
4. the right to present information;
5. the name of the complainant to the extent consistent with applicable law and any recommendation from the Office of Public Safety; and
6. a handout which describes the conduct process.

C. Hearing Procedure

1. The hearing conducted by the Student Life Hearing Board is closed except to those individuals directly involved in the alleged Code of Conduct violation and campus departmental representatives deemed necessary by the Dean of Student Affairs.
2. The Student Life Hearing Board may accommodate concerns for the personal safety, well-being and/or fears of confrontation of the complainant, respondent, and/or other witness during the hearing by providing separate facilities, by using a visual screen, and/or permitting participation by telephone, video tape, written statement or other means,

where and as determined in the sole judgment of the Dean of Student Affairs to be appropriate.

3. Both the complainant (if any) and the respondent have the right to be assisted by one non-attorney advisor of their choice. The advisor may assist the student in the preparation of his/her information; the advisor may help provide support to the student. However, the advisor is neither permitted to advocate on behalf of the student, question eye-witnesses, directly address the members of the Student Life Hearing Board, nor request a schedule change. An advisor who interferes in the hearing process will be removed from the hearing.
4. A written record of the hearing is made and kept in the Office of the Dean of Student Affairs. All deliberations of the Student Life Hearing Board are confidential. .
5. The Student Life Hearing Board will issue a written determination which includes findings of fact, a determination as to whether a preponderance of the evidence supports a finding of responsibility for each incident of charged conduct, and any sanctions to be imposed.

#### D. Notice of Outcome

The Dean of Student Affairs, acting on behalf of the Student Life Hearing Board, shall inform the respondent, in writing, of the outcome of the Student Life Hearing Board, any sanction(s) imposed by the Student Life Hearing Board, and the appeal process. The Dean of Student Affairs serves as the appeal officer and will issue a final determination for these cases.

#### XII. The Appeal Process for Cases Addressed by the Student Life Hearing Board

The appeal process may be implemented by the respondent only in cases where the outcome has resulted in suspension or expulsion from the College. The respondent has three (3) business days from the date he or she was informed of the Student Life Hearing Board's decision to file a written appeal to the Dean of Student Affairs. The written appeal must be received by 11:59pm on the third business day.

The grounds for appeal may only be for one or more of the following:

1. Sanctions that seem disproportionate to the Code of Conduct violation(s).
2. Procedural error in the prehearing or hearing process described in section XI (B-C) of this document.
3. New information that was not known to the Student Life Hearing Board at the time of deliberation. Note: a student's failure to attend a hearing or provide available information during a hearing does not constitute grounds for appeal on the basis of new information.

The Dean of Student Affairs will review the appeal exclusively on these grounds and respond in writing within five (5) business days of receipt of the appeal.

The original finding and sanction(s) will stand if the appeal is not timely or is not based on the grounds listed above, and such a finding and sanction(s) are final.

Note: Appeals are not intended to be full re-hearings of the charge(s). Appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the grounds for appeal. Appeal decisions are final.

### XIII. Sanctions for Students

The following sanctions may be assigned for violations of the Code of Conduct. All result in written notifications being placed in the student's disciplinary file, either in the Office of Student Affairs or in the Office of Residence Life. One or more sanctions may be imposed for the same violation, provided that the respondent is entitled to simultaneous written notice of all sanctions for any particular violation. **Please note that a student's cumulative conduct history, as well as the sanctions assessed to other students in similar cases, will be considered for the assignment of sanctions.**

*Educational Sanctions* – Educational sanctions may be imposed in addition to or instead of the sanctions listed below. For example, students may be required to submit a paper or write letters of apology. Students may have community service projects or educational workshops assigned.

*Order of No Contact* – A student may be restricted from having any contact, either directly or through his/her friends and acquaintances, with another member of the College community. This sanction can include but is not limited to the exclusion from any campus building or property, and avoidance of a specified College member, whether on College property or not, and placing an affirmative duty on the student to maintain a specified distance away from the designated College member.

*Administrative Relocation* – A student can be required to relocate to a different classroom during or after the conclusion of the hearing process. This sanction is utilized to ensure the safety and well-being of the campus community at the discretion of the Dean of Student Affairs.

*Restitution* – A student is required to make payment to the College or to other persons, groups, or organizations for damages incurred as a result of violations of the Code of Conduct.

*Official Warning* – A student receives notification from the Dean of Student Affairs indicating that a violation of the Code of Conduct has occurred and warning that any subsequent violation may be treated more seriously.

*Campus Life Probation* – A defined period of time whereby any registered student is given an opportunity to modify his or her behavior or risk more severe sanctions. Any subsequent violation of the Code of Conduct, while on Campus Life Probation, may result in further disciplinary action.

*Disciplinary Probation* – A student on disciplinary probation is no longer in good standing with the College. He or she cannot be a member of recognized student organizations, serve as a representative of the College, or participate in intramural, club, or intercollegiate sports for a period of time. [The minimum time is one semester. The maximum time is four semesters.] Any violation of the Code of Conduct by the student during the time he or she is on disciplinary probation may result in suspension or expulsion from the College.

*Suspension or Expulsion From One or More Extracurricular Activities* – A student may be temporarily or permanently excluded from one or more extracurricular activities, including inter-collegiate sports and student clubs.

*Suspension from the College* – A student may not be a registered student, be present on campus, or attend College sponsored events for any reason while he or she is suspended from the College for a designated



period. The minimum length of a suspension is one semester; there is no maximum. The student is not entitled to a refund of any tuition or fees.

*Expulsion from the College* – A student may not ever again be a registered student, be present on campus, or attend College sponsored events. The student is not entitled to a refund of any tuition or fees.

*Notation for Crime of Violence* – If a student is suspended or expelled after being found responsible for a crime of violence, as defined above in section IV (A), FMCC must make a notation on the student's transcript that they were "suspended after a finding of responsibility for a code of conduct violation" or "expelled after a finding of responsibility for a code of conduct violation." If a student withdraws from FMCC while any conduct charge(s) related to any crime(s) of violence are pending against the student, and declines to complete the disciplinary process, FMCC must make a notation on the student's transcript that he or she "withdrew with conduct charges pending." These transcript notations can be appealed by contacting the Registrar at 518-736-3622 ext. 8700, or via email at [registrar@fmcc.edu](mailto:registrar@fmcc.edu). Transcript notations for violence-related suspensions shall not be removed prior to one year after conclusion of the suspension. Transcript notations for violence-related expulsions shall never be removed from a student's transcript. If a finding of responsibility is vacated for any reason, however, the transcript notation must be removed.

#### XIV. Modification of the Code of Conduct

The Code of Conduct may be amended when necessary. If a change is made, all students will be notified college wide. Copies of the revised code will be available online and in the Office of Student Affairs.

## APPENDIX D - WAIVER OF ACADEMIC REGULATIONS

- A. When special circumstances warrant, students may request a waiver of any academic regulation. The first step is to write a letter to the Dean of Academic Affairs stating the request and basis for such request, and providing any supporting documentation in the possession of the student. Receipt of the letter will be acknowledged by the Dean within a week of the receipt of the letter. The Dean shall collect all the pertinent information on the case, determine the outcome of the request and respond in writing to the student within 30 days. At his or her discretion, the Dean may establish an ad-hoc committee to review the student's request. The committee's written decision will be delivered to the student within 30 days.
- B. Exception to the above procedure: when a student wants to substitute a required course with an equivalent or a higher-level course, the student should see an academic advisor to initiate a Course Substitution and/or Waiver Form.

## APPENDIX E - APPEAL FOR REVIEW OF GRADES

In any course, assignment of grades is the fundamental right of the instructor who teaches the course. The instructor also has the responsibility to inform the students, in writing, at the beginning of each course of the criteria that will be used for grading. A student who, at the end of the course, feels that the instructor did not apply the grading criteria fairly and thus received an unfair final grade should, before the end of the next semester, take the following steps in the sequence presented here if interested in a review of the specific final course grade:

- Speak with the instructor
- If still dissatisfied, the student may speak with the Dean of Academic Affairs. The Dean of Academic Affairs will attempt to clarify the situation and bring it to closure to the mutual satisfaction of the student and the instructor.
- If still dissatisfied, the student may request the Dean of Academic Affairs to review the case. The Dean will attempt to bring the case to closure to the mutual satisfaction of the student and the instructor.
- At his or her discretion, the Dean may establish an ad-hoc committee to review the student's case. The Dean will consider only those cases in which the student appears to have met the criteria set by the instructor for a given grade, but has received a lower grade. The Dean will not re-evaluate test papers or other methods of evaluation used by the instructor. The Dean will conduct appropriate meetings with persons concerned and issue an advisory statement regarding the grade in question.

## APPENDIX F - ACADEMIC INTEGRITY POLICY

### A. Introduction

At Fulton-Montgomery Community College (FMCC), we are committed to the academic, civic and ethical development of our community. We strive to create a learning environment that is both challenging and supportive. We are committed to upholding the fundamental values of honesty, respect and individual responsibility. Only through a genuine partnership among students, faculty, staff and administrators can we maintain the commitment necessary to ensure that the highest standards of academic integrity are upheld.

Administration and faculty will support students to understand the standards of academic integrity that govern conduct at FMCC. Each student will abide by the following principles:

- Submit work that is his/her own.
- Identify appropriately the work of others when incorporated into his/her own work, including direct quotations, summaries and paraphrases.
- Follow the directions of the instructor with regard to permissible materials in the learning environment at the time of examinations/quizzes or with take-home exams.
- Proceed during examinations/quizzes without any assistance and without communicating in any way with others while the examinations/quizzes are being conducted, unless permitted by the instructor.
- Refrain from obtaining or distributing the content of any examination/quiz, without the permission of the instructor.
- Complete all laboratory observations and reports based solely on his/her own processing of the experiment or demonstration, unless otherwise directed by the instructor.
- Submit work, either whole or in part, only once.
- Represent data and sources appropriately and honestly.

Students are responsible for adhering to these standards. Not being familiar with these standards does not mean that students are not accountable for adherence to them. Furthermore, students are

encouraged to report suspected or known violations of the Academic Integrity Policy to appropriate faculty, staff or administration.

## B. Violations

Violations of academic integrity include, but are not limited to, the following:

- **Plagiarism:** The intentional or unintentional representation of another person's work as one's own. Examples include, but are not limited to, the following:
  - quoting, paraphrasing or summarizing another's work without appropriately acknowledging the source
  - using another's content without acknowledging the source and/or
  - submitting another's work, purchased or otherwise obtained, as one's own
- **Cheating on Examinations/Quizzes:** Looking at another's work, using or bringing to the learning environment materials that are not permitted by the instructor, communicating with another student, receiving any kind of assistance including, but not limited to, assistance from electronic devices and obtaining or disseminating the content of an examination/quiz without the permission of the instructor.
- **Multiple Submission:** Submitting any work of one's own, either whole or in substantial part, to more than one instructor without the permission of the instructor(s) receiving the work.
- **Facilitating Academic Dishonesty:** Knowingly allowing another student to use one's work or cheat from one's examination/quiz.
- **Fabrication:** Falsifying or fabricating information in any situation, including but not limited to data for a lab or research project.

## C. Consequences of Violating Academic Integrity

Consequences at the course level will be at the discretion of the instructor and may include, but are not limited to, one or a combination of the following:

- Verbal or written warning to the student.
- A letter, detailing the violation, to be kept on record.
- Successful completion by the student of an FMCC academic integrity tutorial. Failure to complete the tutorial will result in a one of the two penalties listed below.
- Deduction of points, a grade of "F" or zero for the assignment, project or examination/quiz.
- Lowering of the course grade or failure of the course, not to be superseded by student withdrawal.

Faculty, staff and administration are encouraged to report instances of academic integrity violations to the Dean of Academic Affairs to facilitate the collection of data that would be indicative of repeated violations.

The Office of the Dean of Academic Affairs is responsible for keeping documentation on reported academic integrity violations. A permanent college record is made of reported violations. Notification of a reported violation will be forwarded to the student and the reporting faculty member. A third violation reported to the Office of the Dean of Academic Affairs will result in suspension from the College for one calendar year. If another violation occurs after the student has returned to college, the student will be permanently expelled from the College.

#### **D. Academic Grievance Process**

If the student wishes to challenge the decision, s/he may initiate the Academic Grievance Process.

*During the Academic Grievance Process, the student should continue to participate and abide by the course requirements until a final decision has been made.*

- Student Pre-Appeal Process Regarding Academic Integrity
  - The student may request a meeting with the notifying faculty member to discuss the infraction and the consequences within five school days of the notification of a violation of any area of the Academic Integrity Policy.
  - If a resolution to the issue cannot be found or the student declines to meet with faculty member, the student may request a meeting with the Dean of Academic Affairs, with or without the notifying faculty member, within five school days to further discuss the violation. The Dean will make a decision regarding the violation, and notify the student and faculty member in writing.
- Student Appeal Process Regarding Academic Integrity
  - Once the student has been notified of the Dean's decision, s/he may submit a written request for a hearing with the Academic Grievance Committee to the Dean of Academic Affairs. This written request must be received by the end of the next semester.
  - The Academic Grievance Committee, along with the Dean of Academic Affairs, will meet, make the final decision and notify all parties in writing of that decision.
  - All persons involved will maintain confidentiality at all times. The records of the Academic Grievance Committee shall be maintained by the Office of the Dean of Academic Affairs.

## **APPENDIX G - STUDENT DRUG AND ALCOHOL POLICY**

This policy on the use of alcohol and drugs applies to all students, commuter or residential, and their visitors and guests.

The service, distribution, sale, possession and/or consumption of alcoholic beverages on the Fulton-Montgomery Community College (FMCC) Campus, or at any student-related event on or off campus is strictly prohibited. College sponsored events may not include the purchase or sale of alcohol as part of the official program.

Unlawful behavior involving alcohol including, but not limited to, underage drinking, public intoxication, drinking and driving and manufacturing and/or distribution of alcohol on the campus of Fulton-Montgomery Community College or any student-related on or off campus event, is strictly prohibited.

The manufacture, distribution, sale, purchase, possession and/or use of any illegal drugs or controlled substances on the FMCC campus or at any student-related on or off campus event are strictly prohibited.

A violation of this policy shall be considered a breach of the FMCC Code of Conduct. College leveled sanctions imposed under this policy do not diminish or replace the penalties available under applicable federal, state or local laws.

Specific exceptions to this policy may be approved by the President or his/her designee.

## APPENDIX H – POLICY ON SEXUAL MISCONDUCT PREVENTION AND RESPONSE

### I. Purpose and Scope

A. Purpose: FMCC is committed to creating and maintaining an educational environment free from all forms of sexual misconduct (defined below). Any act involving sexual misconduct will not be tolerated. These acts have a real impact on the lives of victims. They not only violate a person's feelings of trust and safety, but they can also substantially interfere with a student's education or an employee's employment. It is the collective responsibility of all members of the FMCC community to foster a safe and secure campus environment.

### B. Scope:

1. Who: This Policy applies to all members of the FMCC community, including students, faculty, staff, visitors, independent contractors, and other third parties who are on campus and involved in an incident of sexual misconduct (this can be someone who witnessed an incident or who wishes to report an incident on behalf of another).
2. What: This Policy prohibits all forms of sexual misconduct (as defined below). This broad term includes, but is not limited to, acts of nonconsensual sexual activity, relationship violence, sexual assault and stalking. Please refer to the Definitions section for a complete list of terms and prohibited acts.

This Policy covers incidents of sexual misconduct occurring between individuals in various types of relationships. These include, but are not limited to, student to student, staff to staff, faculty member to faculty member, visitor/contracted employee to faculty/staff, faculty member to student, staff to student, supervisor to subordinate, and coach to student athlete. These may be acts committed by or against an individual or group. These acts may be committed by a stranger, an acquaintance, or someone with whom the victim has a social, romantic, or intimate relationship. These acts may be committed by or against any individual, regardless of sexual orientation or gender identity.

3. Where: This Policy covers conduct that takes place at FMCC. This includes any building or property owned or controlled by FMCC and used in direct support of, or in a manner related to, the College's educational purposes, including dining halls and public property within or immediately adjacent to and accessible from campus. This also includes any building or property owned or controlled by a student organization that is officially recognized by FMCC and any building or property not within the same reasonably contiguous geographic area of FMCC that supports or relates to the College's educational purposes and is frequently used by students.

This Policy also covers conduct that takes place off-campus that may have a nexus to the FMCC community. This Policy also applies to incidents that occur while a student is studying abroad. When the conduct involves students or employees from two or more institutions, FMCC will work collaboratively with the other institutions to address the conduct, provided that the collaboration complies with the Family Educational Rights Privacy Act (“FERPA”).

This Policy covers all educational, extracurricular, athletic, or other campus programs. This Policy also covers all campus and College-related activities, including, but not limited to, student organizations, community organizations with student and/or faculty participation, and all other educational or extracurricular events hosted by or at FMCC.

- C. Nondiscrimination: FMCC applies the protections set forth in this Policy 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, criminal conviction, or other protected characteristics. Students may exercise civil rights and practice religion without interference by FMCC’s investigation or conduct processes.

## II. Definitions

- A. “Affirmative Consent”: Affirmative Consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant’s sex, sexual orientation, gender identity, or gender expression.
- Consent to any sexual activity between or with any party does not necessarily constitute consent to any other sexual act.
    - Whether through words or actions that clearly display consent, each party must affirmatively consent to participating in each sexual activity. Consenting to one type of sexual activity is not blanket consent to any and all types of sexual activity.
  - Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.
  - Consent may be initially given but withdrawn at any time.
  - Consent cannot be given when a person is incapacitated, which occurs when an individual lacks the ability to knowingly choose to participate in sexual activity.
    - Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, being under the age of consent, or if an individual otherwise cannot consent. Minors who cannot consent under New York’s laws covering age of consent are considered incapacitated. Under New York law, the age of consent is 17 years old. Students and employees are encouraged to review New York State Penal Law Article 130 for additional details regarding New York’s age of consent.
    - Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent. This does not mean that individuals cannot affirmatively consent to sexual activity or contact

when they have been drinking or using drugs, however. Such individuals may still affirmatively consent through words or actions that clearly indicate interest in engaging in the activity.

- Incapacitation is to be determined by a student conduct or investigation process based on available evidence, acknowledging that in almost no cases will scientific evidence of alcohol or drug level (such as a breathalyzer taken at the time of the assault) be available. There is no single standard or number of drinks that leads to incapacitation. This level varies for different people, and may depend in part on their age, gender, height, weight, metabolism and whether and how much they have recently eaten.
  - Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
  - When consent is withdrawn or can no longer be given, sexual activity must stop.
    - Consent can “no longer be given” when a party to a sexual act or sexual contact initially consents to the activity, but during the course of the activity falls asleep or otherwise becomes unconscious or incapacitated. At that point, the other party must stop the sexual activity or contact.
- B. “Appellate Board” – for any student disciplinary proceeding that involves a charge of sexual misconduct (as defined below), the Appellate Board will contain any three or more persons authorized by the Dean of Student Affairs to consider an appeal from an investigator’s determination that no sexual misconduct violation occurred, and from the Student Life Hearing Board’s final determination regarding responsibility and/or sanctions. Such Appellate Board shall be appointed by the Dean of Student Affairs and consists of a panel of student(s), administrator(s), or faculty member(s) (chosen from a list of FMCC faculty who have been designated to serve in this capacity). Members of the Appellate Board receive annual training in conducting investigations of sexual misconduct, 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, the Policy, and other issues related to sexual assault, relationship violence and stalking.
- C. “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.
- D. “Code of Conduct” shall mean the written policies adopted by FMCC governing student behavior, rights, and responsibilities while such student is matriculated in the Institution.
- E. “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.
- The obligation to keep information in confidence is inherent for certain FMCC professionals on campus, such as health care providers, licensed social workers, licensed psychologists, and pastoral and professional counselors (including licensed mental health counselors). Many off-campus resources such as rape crisis centers are also confidential, and with the exception of certain acts of child abuse and imminent threats. Individuals working in such organizations have no obligation to report information back to the reporting individual’s campus.

- It is important to note that all Responsible Employees at FMCC (as defined below) are required to report known incidents of sexual assault or other crimes, so they are NOT confidential resources. However, even FMCC officers and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information you provide to a nonconfidential resource will be relayed only as necessary for the Title IX Coordinator to investigate and/or seek a resolution.
- F. “Crime of Violence” shall be defined as murder, manslaughter, rape, fondling, incest, statutory rape, robbery, aggravated assault, burglary, motor vehicle theft, and arson, as defined below.
- Criminal Homicide - Manslaughter by Negligence: The killing of another person through gross negligence.
  - Criminal Homicide - Murder and Nonnegligent Manslaughter: The willful (nonnegligent) killing of one human being by another.
  - Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
  - Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
  - Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent. Under New York law, the age of consent is 17 years old. See New York State Penal Law Article 130.
  - 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.
  - 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.
  - 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.
  - Motor Vehicle Theft: The theft or attempted theft of a motor vehicle.
  - 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.
- G. “Institution” shall mean any College or university chartered by the regents or incorporated by special act of the legislature that maintains a campus in New York.
- H. “Nonconsensual Sexual Activity” occurs when “sexual activity” (as defined below) is perpetrated against a victim without his or her “affirmative consent” (as defined above).



- I. “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 applicable laws, including informing appropriate FMCC officials.
- Although most FMCC employees are not confidential resources, they can still offer “privacy.” This means that an employee may have to share information pursuant to federal or state law or College policy with certain other FMCC employees, but they will not share the private information beyond what is required or needed to comply with law and policy, and will otherwise limit re-disclosure as much as possible.
  - Privacy of the records specific to any investigation is maintained in accordance with New York State law and, with respect to student records, the federal Family Educational Rights and Privacy Act of 1974 (FERPA) statute. Any public release of information to comply with the timely warning provisions of the Jeanne Clery Act (Clery Act) will not release the names of victims or information that could easily lead to a victim’s identification.
- J. “Relationship Violence” shall be defined to include “domestic violence” and “dating violence” as defined under federal and state law.
- Generally, relationship violence is a pattern of coercive behaviors that serve to exercise control and power in an intimate relationship. The coercive and abusive behaviors can be physical, sexual, psychological, verbal and/or emotional in nature. Intimate partner abuse can occur in relationships of the same or different genders; between current or former intimate partners who have dated, lived together, or been married.
  - Under the federal Clery Act regulations:
    - domestic violence is defined as felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or New York family violence laws, or by any other person against an adult or youth victim who is protected from that person’s acts under New York domestic or family violence laws.
    - dating violence is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship is 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. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.
  - Under New York law:
    - domestic violence is an act which would constitute a violation of the penal law, including, but not limited to acts constituting disorderly conduct, harassment, aggravated harassment, sexual misconduct, forcible touching, sexual abuse, stalking, criminal mischief, menacing, reckless endangerment, kidnapping, assault, attempted murder, criminal obstruction or breaching or blood circulation, or strangulation; and such acts have created a substantial risk of physical or emotional harm to a person or a person’s

child. Such acts are alleged to have been committed by a family member. The victim can be anyone over the age of sixteen, any married person or any parent accompanied by his or her minor child or children in situations in which such person or such person's child is a victim of the act.

- "Family or household member" means persons related by consanguinity or affinity; persons legally married to one another; person formerly married to one another regardless of whether they still reside in the same household; persons who have a child in common regardless of whether such persons are married or have lived together at any time; Unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household; Persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time.
  - Factors that may be considered in determining whether a relationship is an "intimate relationship" include, but are not limited to: the nature or type of relationship regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an "intimate relationship"; Any other category of individuals deemed to be a victim of domestic violence as defined by the office of children and family services in regulation. Intimate relationship status shall be applied to teens, lesbian/gay/bisexual/transgender, and elderly individuals, current and formerly married and/or dating heterosexual individuals who were, or are in an intimate relationship.
  - "Parent" means natural or adoptive parent or any individual lawfully charged with a minor child's care or custody.
    - o dating violence - New York State does not specifically define "dating violence." However, under New York Law, intimate relationships are covered by the definition of domestic violence when the act constitutes a crime and is committed by a person in an "intimate relationship" with the victim.
- K. "Reporting Individual" shall encompass the terms victim, survivor, complainant, claimant, witness with victim status, and any other term used by FMCC to reference an individual who brings forth a report of a violation.
- L. "Respondent" shall mean a person accused of a violation.
- M. "Responsible Employee" shall be defined as any employee: who has the authority to take action to redress sexual misconduct (as defined below); who has been given the duty of reporting incidents of sexual misconduct or any other misconduct by students to the Title IX Coordinator; or whom a student could reasonably believe has this authority or duty. At FMCC, Responsible Employees include the following:
- President, Dean of Academic Affairs, Dean of Student Affairs, and Director of Business Affairs;
  - Human Resources Manager;
  - Public Safety Office;
  - Anyone else a student would reasonably believe is a Responsible Employee, including: deans, advisors, club advisors, coaches, mentors, and program directors; and

- In some instances, faculty members (when overseeing an event, supervising an away trip, or serving in some other role that would cause a student to reasonably believe that the faculty member is a Responsible Employee).

A Responsible Employee must report to the College's Title IX coordinator, or other appropriate College designee, all relevant details about the alleged sexual misconduct that the student or another person has shared and that FMCC will need to determine what occurred and to resolve the situation. This includes the names of the alleged perpetrator (if known), the student who experienced the alleged sexual misconduct, and other students involved in the alleged Misconduct, as well as relevant facts, including the date, time, and location.

Before a student reveals information that he or she may wish to keep confidential, a Responsible Employee will make every effort to ensure that the student understands: (i) the employee's obligation to report the names of the alleged perpetrator and student involved in the alleged sexual misconduct, as well as relevant facts regarding the alleged incident (including the date, time, and location), to the Title IX coordinator or other appropriate College officials, (ii) the student's option to request that the College maintain his or her confidentiality, which the Title IX coordinator will consider, and (iii) the student's ability to share the information confidentially with counseling, advocacy, health, mental health, or sexual-assault-related services.

N. "Sexual Activity" has the same meaning as "sexual act" and "sexual contact" as provided in 18 U.S.C. § 2246(2) and 18 U.S.C. § 2246(3). Therefore, the term "sexual activity" includes the following:

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

Individuals must obtain affirmative consent (as defined above) prior to engaging in any of the activity referenced above.

O. "Sexual Assault" as defined under both federal and state law.

- Under the federal Clery Act regulations, the term "sexual assault" means an offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's UCR program and as set forth in Appendix A to the Clery Act regulations (34 CFR § 668.46). In Appendix A to the Clery Act regulations, these terms are defined as follows:
  - Rape – The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

- Fondling – the touching of the private body parts of another person for the purpose of sexual gratification, 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.
  - Incest – sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - Statutory Rape – sexual intercourse with a person who is under the statutory age of consent. Under New York law, the age of consent is 17 years old. See New York State Penal Law Article 130.
- Under New York law, “sexual assault” includes any and all “sexual offenses” defined in New York State Penal Code Article 130. These sexual offenses include sexual misconduct, rape, sexual abuse, forcible touching, and aggravated sexual contact, and involve conduct that would generally fall within the above-listed definitions. However, these offenses also cover certain actions, such as sexual assault with an object, which may not be included within the above-listed definitions. Students and employees are encouraged to review the full definitions and elements of these offenses, which can be found in New York State Penal Law §§ 130.00 to 130.96. Under New York State law, a sexual offense occurs when certain sexual acts are perpetrated against a victim without his or her affirmative consent.
- P. “Sexual Misconduct” – a term used by FMCC, which includes any incident of “sexual assault,” “nonconsensual sexual activity,” “relationship violence,” and/or “stalking,” as those terms are defined in this Policy.
- Q. “Stalking” as defined under both federal and state law.
- Generally, stalking is a pattern of behavior that can include:
    - Repeatedly leaving or sending victim unwanted items, presents, flowers
    - Harassing the victim through the internet, including social networking websites
    - Repeated, unwanted and intrusive phone calls, e-mails or text messages; especially after being clearly informed to stop
    - Damaging or threatening to damage the victim’s property
    - Following, monitoring, surveillance of victim and/or victim’s family, friends, co-workers
    - Abusing or killing a pet or other animal
    - Crossing jurisdictions/borders to stalk/commit offenses
  - Under the federal Clery Act regulations, stalking means 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. For the purposes of this definition:
    - “course of conduct” means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property;
    - “reasonable person” means a reasonable person under similar circumstances and with similar identities to the victim; and
    - “substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

- Under New York law, a person engages in stalking 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:
  - 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
  - causes material harm to the mental or emotional health of such person, where such conduct consists of following (including unauthorized tracking of someone’s movements or location through a GPS or other device), 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
  - 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.

More detailed definitions can be found in New York State Penal Law §§ 120.45 to 120.60.

- R. “Title IX Coordinator” shall mean the Title IX Coordinator and/or his or her designee or designees.

### III. Alcohol and/or Drug Use Amnesty for Students in Sexual Misconduct Cases

The health and safety of every student at the State University of New York and its State-operated and community Colleges is of utmost importance. FMCC recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that sexual misconduct, including but not limited to relationship violence, stalking, or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. FMCC strongly encourages students to report sexual misconduct, relationship violence, stalking, or sexual assault to institution officials. A bystander acting in good faith or a complainant acting in good faith who discloses any incident of sexual misconduct, relationship violence, stalking, or sexual assault to FMCC’s officials or law enforcement will not be subject to FMCC’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 sexual misconduct, relationship violence, stalking, or sexual assault.

### IV. Campus Climate Assessment

Climate assessments afford institutions the opportunity to better understand their campus and to make informed decisions when it comes to providing a safe educational environment. On an annual basis, each State University of New York State-operated and community College will conduct a uniform climate survey that ascertains student experience with and knowledge of reporting and College adjudicatory processes for sexual misconduct and other related crimes.

The survey will address at least the following:

- Student and employee knowledge about:
  - The Title IX Coordinator’s role;
  - Campus policies and procedures addressing sexual assault;
  - How and where to report sexual misconduct as a victim/survivor or witness;

- The availability of resources on and off campus, such as counseling, health, academic assistance;
- The prevalence of victimization and perpetration of sexual assault, relationship violence, and stalking on and off campus during a set time period (for example, the last two years);
- Bystander attitudes and behavior;
- Whether victims/survivors reported to FMCC and/or police, and reasons why they did or did not report.
- The general awareness of the difference, if any, between the institution's policies and the penal law; and
- The general awareness of the definition of affirmative consent.

FMCC will take steps to ensure that answers remain anonymous and that no individual is identified. Results will be published on the campus website providing no personally identifiable information shall be shared.

#### V. Students' Bill of Rights

The State University of New York and FMCC are committed to providing options, support and assistance to victims/survivors of sexual assault, relationship violence, and/or stalking to ensure that they can continue to participate in FMCC-wide and campus programs, activities, and employment. All victims/survivors 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, criminal conviction, or other protected characteristic, have the following rights, regardless of whether the crime or violation occurs on campus, off campus, or while studying abroad:

All students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of relationship violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the conduct process and/or criminal justice process free from pressure from the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few institutional representatives as practicable and not to be required to unnecessarily repeat a description of the incident;
8. Be free from retaliation by the institution, the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
9. Access to at least one level of appeal of a determination;

10. Be accompanied by an advisor of choice, including an attorney, who may assist and advise a reporting individual or respondent throughout the conduct process including during all meetings and hearings related to such process;
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or conduct process of the College.

Options in Brief:

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:

- Receive resources, such as counseling and medical attention;
- Confidentially or anonymously disclose a crime or violation (for detailed information on confidentiality and privacy, see the section below entitled Options for Confidentially Disclosing Sexual Misconduct).
- Make a report to:
  - An employee with the authority to address complaints, including the Title IX Coordinator, the Dean of Student Affairs, or a Human Resources employee;
  - FMCC Office of Public Safety;
  - 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 FMCC's website, and posted in each campus dining hall, and student union or campus center, and shall include links or information to access the Sexual Misconduct Prevention and Response Policy.

VI. Rights of Reporting Individuals

A. Reporting

Reporting individual have the right to receive, at a minimum, at the first instance of disclosure by a reporting individual to a College representative, the following information:

“You have the right to make a report to FMCC Police or Campus Security, local law enforcement, and/or State Police or choose not to report; to report the incident to your institution; to be protected by the institution from retaliation for reporting an incident; and to receive assistance and resources from your institution.”

1. Confidential Reports

- To disclose *confidentially* the incident to a College official, who by law may maintain confidentiality, and can assist in obtaining services. More information on confidential reports is available in Options for Confidentially Disclosing Sexual Misconduct (section VII) below.
- To disclose *confidentially* the incident and obtain services from New York State, Fulton or Montgomery County, or other outside resources.. More information on confidential reports is available in Options for Confidentially Disclosing Sexual Misconduct (section VII)

below.

## 2. Emergency Assistance

- To disclose the incident to the Title IX Coordinator or another appropriate official who has been designated by the Title IX Coordinator to provide emergency assistance (the “Designee”).
  - The Designee may be an official of FMCC or an official of an off campus resource.
  - The Title IX Coordinator or Designee will be available upon the first instance of disclosure by a reporting individual to provide immediate information and assistance regarding (1) options to proceed, including other reporting options; (2) where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible; and (3) the criminal justice process, including that it utilizes different standards of proof and evidence and that any questions about whether a specific incident violated the penal law should be addressed to law enforcement or to the district attorney.
  - The Title IX Coordinator or Designee 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 the institution from retaliation, and to receive assistance and resources from the institution.
  - The Title IX Coordinator or Designee will also explain that they are private and not confidential resources, and they may still be required by law and College policy to inform one or more College officials about the incident.
  - The Title IX Coordinator will generally be available for emergency access on weekdays between the hours of 8:00 a.m. to 4:00 p.m., at the following: Arlene Spencer (Office A111), 518-736-3622 ext. 8100, [arlene.spencer@fmcc.edu](mailto:arlene.spencer@fmcc.edu).
  - When the Title IX Coordinator is not available, emergency access to a designee will be available, at the following:
    - Sexual Assault Support Services, 518-736-1911 ext. 4221, Hotline 866-307-4086
    - FMCC Office of Public Safety, 518-736-3622 ext. 8405, Physical Education Building, FMCC campus.

## 3. Criminal Complaint

To file a criminal complaint with local law enforcement and/or State Police:

City of Amsterdam Police	518-842-1100	1 Guy Park Ave Amsterdam, NY 12010
City of Gloversville Police	518-773-4572	3 Frontage Rd. Gloversville, NY 12078
City of Johnstown Police	518-736-4021	41 E Main St Johnstown, NY 12095
Fulton County Sheriff	518-736-2100	2172 County Hwy 29 Johnstown, NY 12095

- New York State Police 24-hour hotline to report sexual assault on a NY College campus: 1-844-845-7269.



- If a reporting individual wants or needs assistance in notifying the local Police Departments or State Police, he or she should contact FMCC's Office of Public Safety who will assist in doing so. FMCC's Office of Public Safety can be contacted at: 518-736-3622 ext. 8405.
- Please note that there are significant differences between FMCC's disciplinary system and the criminal justice system, because they have different, important goals. In the criminal justice system, prosecutors pursue cases when they believe there is sufficient evidence to prove, beyond a reasonable doubt, that an individual has committed a criminal act. A person who is convicted of a crime will face criminal penalties, such as incarceration, probation, or the imposition of a fine. FMCC's disciplinary process seeks to determine whether an individual has violated College policy. In this process, a preponderance of the evidence standard of proof is used to determine responsibility. A person who is found to have violated FMCC policy may be suspended, expelled or otherwise restricted from full participation in the FMCC community. Additional information regarding these distinctions can be found in section X and Addendum A below.

#### 4. Private Reports

- To file a campus report of sexual assault, relationship violence, and/or stalking, and/or talk to the Title IX Coordinator for information and assistance.
  - Reports can be made to the Title IX Coordinator:
    - Arlene Spencer (Office A111)
    - Title IX Coordinator
    - 518-736-3622 ext. 8100
    - [arlene.spencer@fmcc.edu](mailto:arlene.spencer@fmcc.edu)
  - Reports can also be made to any FMCC employee. If a report is made to another FMCC employee, this employee will refer the report to the Title IX Coordinator.
  - Reports will be investigated in accordance with FMCC policy, outlined below, and the reporting individual's identity shall remain private at all times if said reporting individual wishes to maintain privacy.
  - If a reporting individual wishes to keep his/her identity anonymous, he or she may call the Title IX Coordinator anonymously to discuss the situation and available options. See below for additional details on making a confidential report to FMCC.

When the respondent is an employee, to report the incident to the FMCC Office of Human Resources. Current reports should be sent to Arlene Spencer, Student Welcome Center, A111, 518-736-3622 ext. 8100, email [arlene.spencer@fmcc.edu](mailto:arlene.spencer@fmcc.edu).

- Disciplinary proceedings (if any) will be conducted in accordance with any applicable collective bargaining agreement, law, or policy for unrepresented employees.
- When the respondent is an employee of an affiliated entity or vendor of the College, College 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, issue a *persona non grata* letter, subject to legal requirements and College policy.

#### 5. Withdrawal

- To withdraw your complaint or involvement from the FMCC process at any time.

- If you choose to withdraw, however, FMCC may still have obligations to investigate and/or take actions under state or federal law. If FMCC continues an investigation or takes action after you withdraw, you have the right to participate as much or as little as you wish.

B. Resources

Reporting individuals have the following rights:

1. Assistance with Legal Proceedings

- To receive assistance by one of the following below-listed agencies in initiating legal proceedings in family court or civil court.
  - Empire Justice Center  
119 Washington Avenue, 3rd Floor  
Albany, NY 12210  
Business Phone: Long Island: 631-650-2317; Rochester: 585-454-4060
  - Pro Bono Appeals Program c/o Rural Law Center of NY  
90 State Street, Suite 700  
Albany, NY 12207  
Business Phone: 518-561-5460  
Website: <http://www.nysba.org/CustomTemplates/Content.aspx?id=180>
  - Legal Aid Society of Northeastern New York - Amsterdam office  
1 Kimball Street  
Amsterdam, NY 12010  
Business Phone: 518-842-9466 / Hotline: 800-821-8347  
Website: <http://www.lasnny.org>

2. Intervention Services

- To obtain effective intervention services.
  - Sexual contact can transmit Sexually Transmitted Infections (STI) and may result in pregnancy. Testing for STIs and emergency contraception is available. Students can obtain tests for STIs and emergency contraception at the following:

St. Mary's Hospital	518-842-1900	427 Guy Park Ave Amsterdam, NY
Nathan Littauer Hospital	518-725-8621	99 E State St Gloversville, NY
Sexual Assault & Crime Victim Services, Planned Parenthood Mohawk	518-736-1911 866-307-4086 24 hr. hotline	400 North Perry St. Johnstown, NY

- Other applicable available centers and services include the following:

Program/Entity	Contact Information	Cost
YWCA North Eastern NY (NENY)	P: 518-374-3394 Hotline: 518-374-3386 E: <a href="mailto:info@ywca-neny.org">info@ywca-neny.org</a> W: <a href="http://www.ywca-northeasternny.org/">http://www.ywca-northeasternny.org/</a>	No cost
Sexual Assault Support Services of Planned Parenthood Mohawk-Hudson	P: 518-736-1911 ext. 4221 Hotline: 866-307-4086 E: <a href="mailto:j.pustolka@ppmhchoices.org">j.pustolka@ppmhchoices.org</a> W: <a href="https://www.plannedparenthood.org/planned-parenthood-mohawk-hudson">https://www.plannedparenthood.org/planned-parenthood-mohawk-hudson</a>	No cost
Unity House	P: 518-272-2370 W: <a href="https://www.unityhouseeny.org/">https://www.unityhouseeny.org/</a>	No cost
Equinox Domestic Violence Services	P: 518-434-7865 W: <a href="http://www.equinoxinc.org/page/what-we-do-2.html">http://www.equinoxinc.org/page/what-we-do-2.html</a>	No cost
NYS Office for the Prevention of Domestic Violence	P: 800-942-6906 W: <a href="http://www.opdv.ny.gov/contact.html">http://www.opdv.ny.gov/contact.html</a>	No cost
New York State Coalition Against Sexual Assault	P: 800-942-6906 W: <a href="http://nyscasa.org/">http://nyscasa.org/</a>	For a fee

- Within 96 hours of an assault, you can get a Sexual Assault Forensic Examination (commonly referred to as a rape kit) at one of the above-listed hospitals
  - While there should be no charge for a rape kit, there may be a charge for medical or counseling services off campus and, in some cases, insurance may be billed for services. You are encouraged to let hospital personnel know if you do not want your insurance policyholder to be notified about your access to these services.
    - 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 funds. More information may be found here: <https://ovs.ny.gov/>, or by calling 1-800-247-8035. Options are explained here: <https://ovs.ny.gov/help-crime-victims>.
- To best preserve evidence, victims/survivors should avoid showering, washing, changing clothes, combing hair, drinking, eating, or doing anything to alter physical appearance until after a physical exam has been completed.

### 3. Assistance to Obtain an Order of Protection

- All reporting individuals have the right to have assistance from the FMCC Office of Public Safety or other College 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.
  - FMCC serves as a resource to students in initiating these proceedings. However, FMCC is not required to bring actions on behalf of reporting individuals, provide or pay for attorneys, or provide direct support. The local resources listed above, may be able to help you initiate legal proceedings, however.

- All reporting individuals have the right to receive a copy of the Order of Protection or equivalent and have an opportunity to meet or speak with a College official who can explain the order and answer questions about it, including information from the Order about the respondent's responsibility to stay away from the protected person(s); that burden does not rest on the protected person(s). The following individuals can be contacted for assistance in obtaining or understanding an Order of Protection:
  - Davida Capece, Public Safety Office, Physical Education Building, P144, 518-736-3622 ext. 8405, [dcapece@fmcc.edu](mailto:dcapece@fmcc.edu).
  - An order of protection is issued by the court to limit the behavior of someone who harms or threatens to harm another person. It is used to address various types of safety issues, including, but not limited to situations involving relationship violence, stalking and sexual assault. Family Courts, criminal courts, and Supreme Courts can all issue orders of protection. An order of protection may direct the offending person not to injure, threaten or harass you, your family, or any other person(s) listed in the order.
  - A Family Court order of protection is issued as part of a civil proceeding. Its purpose is to stop violence within a family, or within an intimate relationship, and provide protection for those individuals affected. All Family Court proceedings are confidential. To obtain an order of protection in the Family Court, your relationship to the other person must fall into one of the following categories: (1) current or former spouse, (2) someone with whom you have a child in common, (3) a family member to whom you are related by blood or marriage, or (4) someone with whom you have or have had an "intimate relationship." An intimate relationship does not have to be a sexual relationship. A relationship may be considered intimate depending on factors such as how often you see each other, or how long you have known each other. After a petition is filed, the court will decide if it is an intimate relationship.
  - To start a proceeding in Family Court, you need to file a form called a Family Offense petition. You can contact the Family Court in your county for help completing and filing the petition. Contact information for the Family Courts in Fulton and Montgomery Counties is as follows:
    - Fulton County Family Court  
223 W Main St, Johnstown, NY 12095  
(518) 706-3260
    - Montgomery County Family Court  
58 Broadway, Fonda, NY 12068  
(518) 853-8133
  - You may also wish to speak with an attorney or domestic violence advocate before filing.
  - A criminal court order of protection is issued as a condition of a defendant's release and/or bail in a criminal case. A criminal court order of protection may only be issued against a person who has been charged with a crime.
- Reporting individuals have the right to an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension.
- Reporting individuals have the right to have assistance from Campus Safety 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 Campus Safety or, if outside of the jurisdiction, to call on and assist local law enforcement in effecting an arrest for violating such an order.

VII. Options for Confidentially Disclosing Sexual Misconduct

A. Confidential Resources

Individuals who are *confidential* resources will not report crimes to law enforcement or College officials without your permission, except for extreme circumstances, such as child abuse or an imminent threat. At FMCC, this includes:

- St Mary's Healthcare Counseling Services, Student Development Center N-107, 518-736-3622 ext. 8148.
- Employee Assistance Program, St. Mary's Healthcare, 430 Guy Park Ave, Amsterdam, NY 12010, 518-843-0503, 800-477-4143
- Anonymous On-line Reporting Form: <https://www.fmcc.edu/about/campus-safety/anonymous-reporting-form/>.

Off-campus options to disclose sexual violence *confidentially* include:

- 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. (Note that these outside options do not provide any information to the campus.)

Program/Entity	Contact Information	Cost
Sexual Assault Support Services of Planned Parenthood Mohawk-Hudson	P: 518-736-1911 ext. 4221 Hotline: 866-307-4086 E: <a href="mailto:j.pustolka@ppmhchoices.org">j.pustolka@ppmhchoices.org</a> W: <a href="https://www.plannedparenthood.org/planned-parenthood-mohawk-hudson">https://www.plannedparenthood.org/planned-parenthood-mohawk-hudson</a>	No cost
YWCA North Eastern NY (NENY)	P: 518-374-3394 Hotline: 518-374-3386 E: <a href="mailto:info@ywca-neny.org">info@ywca-neny.org</a> W: <a href="http://www.ywca-northeasternny.org/">http://www.ywca-northeasternny.org/</a>	No cost
Unity House	P: 518-272-2370 W: <a href="https://www.unityhouseny.org/">https://www.unityhouseny.org/</a>	No cost
Equinox Domestic Violence Services	P: 518-434-7865 W: <a href="http://www.equinoxinc.org/whatwedo/dv.php">http://www.equinoxinc.org/whatwedo/dv.php</a>	No cost
Legal Aid Society of Northeastern New York	P: 800-462-2922 W: <a href="http://www.lasanny.org">http://www.lasanny.org</a>	For a fee
Empire Justice Center	P: 518-462-6831 W: <a href="http://www.empirejustice.org">http://www.empirejustice.org</a>	No cost
NYS Office for the Prevention of Domestic Violence	P: 800-942-6906 W: <a href="http://www.opdv.ny.gov/contact.html">http://www.opdv.ny.gov/contact.html</a>	No cost
New York State Coalition Against Sexual Assault	P: 800-942-6906 W: <a href="http://nyscasa.org/">http://nyscasa.org/</a>	For a fee

Program/Entity	Contact Information	Cost
Victim Advocacy Services (VAS) for Fulton, Montgomery, Hamilton Counties	P: 866-307-4086 W: <a href="https://www.plannedparenthood.org/planned-parenthood-mohawk-hudson/victim-advocacy-services">https://www.plannedparenthood.org/planned-parenthood-mohawk-hudson/victim-advocacy-services</a>	No cost
In Our Own Voices	P: 518-432-4188 W: <a href="http://www.inourownvoices.org">www.inourownvoices.org</a>	No cost

- Off-campus healthcare providers:

Program/Entity	Location	Contact Information	Cost
St Mary's Healthcare	427 Guy Park Ave Amsterdam, NY	518-842-1900	For a fee
Nathan Littauer Hospital	99 E State St, Gloversville, NY	518-725-8621	For a fee

- 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://ovs.ny.gov/>, or by calling 1-800-247-8035. Options are explained here: <https://ovs.ny.gov/help-crime-victims>.

Note that even individuals who can typically maintain confidentiality are subject to exceptions under the law, including when an individual is an imminent threat to him or herself or others and the mandatory reporting of child abuse.

#### B. Privacy versus Confidentiality

Even FMCC officers and employees who cannot guarantee *confidentiality* will maintain your *privacy* to the greatest extent possible. The information you provide to a nonconfidential 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. FMCC will limit the disclosure as much as possible, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored.

Additional information as to how FMCC will weigh and respond to a request for confidentiality is set forth below in section X (B) (Consent to Conduct an Investigation).

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 parents' prior year federal income tax return. Generally, FMCC will not share information about a report of sexual misconduct with parents without the permission of the reporting individual.

#### C. Anonymous Disclosure

You can make a report through an external anonymous hotline. These hotlines include the following:

- New York State Domestic and Sexual Violence Hotline: 800-942-6906.
- Equinox Hotline: 518-432-7865.
- Unity House Hotline: 518-272-2370.
- The National Domestic Violence Hotline: 800-799-7233.
- The National Sexual Assault Hotline: 800-656-4673.
- Safe Horizon Hotlines: 800-621-4673 (domestic violence), 866-689-4357 (victims of other crimes, 212-227-3000 (rape & sexual assault victims).
- New York City or county hotlines: <http://www.opdv.ny.gov/help/dvhotlines.html>.
- Additional disclosure and assistance options are catalogued by the Office for the Prevention of Domestic Violence and presented in several languages: <http://www.opdv.ny.gov/help/index.html> (or by calling 800-942-6906), and assistance can also be obtained through:
  - SurvJustice: <https://survjustice.org/get-legal-help/>;
  - Legal Momentum: <https://www.legalmomentum.org/>;
  - NYSCASA: <http://nyscasa.org/responding>;
  - NYSCADV: <http://www.nyscadv.org/>;
  - Pandora's Project: <https://pandys.org/>;
  - LGBTQ Domestic Violence Project: <http://www.glbtqdv.org/>; and
  - 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 confidential or private resource so that the campus can take appropriate action in these cases.

## VIII. Student Onboarding and Ongoing Education

The State University of New York and its State-operated and community colleges believe that sexual misconduct prevention training and education cannot be accomplished via a single day or a single method of training. To that end, FMCC will continue to educate all new and current students using a variety of best practices aimed at educating the entire College community in a way that decreases violence and maintaining a culture where sexual assault and acts of violence are not tolerated.

### A. Student On-Boarding

All new first year and transfer students, during the course of their onboarding to FMCC, will be offered training on the following topics, using a method and manner determined by FMCC:

1. FMCC prohibits sexual misconduct, including sexual assault, relationship 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 respondent within the jurisdiction of the institution;
2. Relevant definitions including, but not limited to, the definitions of sexual assault, relationship violence, stalking, confidentiality, privacy, and affirmative consent;

3. Policies apply equally to all students regardless of sexual orientation, gender identity, or gender expression;
4. The role of the Title IX Coordinator, FMCC Campus Security, and other relevant offices that address relationship violence, stalking, and sexual assault prevention and response;
5. Awareness of sexual misconduct, its impact on victims and survivors and their friends and family, and its long-term impact;
6. The Students' Bill of Rights and Sexual Misconduct Prevention and Response Policy, including:
  - How to report sexual misconduct and other crimes confidentially, and/or to College officials, campus law enforcement and security, and local law enforcement; and
  - How to obtain services and support;
7. Bystander intervention and the importance of taking action to prevent violence when one can safely do so;
8. The protections of the Policy for Alcohol and/or Drug Use Amnesty for Students and Sexual Misconduct Cases.
9. Risk assessment and reduction including, but not limited to, steps that potential victims, perpetrators, and bystanders can take to lower the incidence of violations, which may contain information about the dangers of drug and alcohol use, including underage drinking and binge drinking, involuntary consumption of incapacitating drugs and the danger of mislabeled drugs and alcohol, the importance of communication with trusted friends and family whether on campus or off campus, and the availability of institution officials who can answer general or specific questions about risk reduction; and
10. Consequences and sanctions for individuals who commit these crimes and Code of Conduct violations.

The onboarding process is not limited to a single day of orientation, but recognizes that students enroll at different times at different SUNY campuses and gives campuses the flexibility to best educate students at a time and manner that can most effectively bring these points to light. FMCC will conduct these trainings for all new students, whether first-year or transfer, undergraduate, graduate, or professional. FMCC shall use multiple methods to educate students about sexual misconduct prevention.

Each SUNY institution will also share information on sexual misconduct prevention with parents of enrolling students. Information for parents can be found on FMCC's website, at <https://www.fmcc.edu/about/about-FM/FM-board-of-trustees/board-policies/>.

#### B. Additional Training Provided by FMCC

In addition to the training outlined in the Policy, FMCC also offers specific training to international students, students that are also employees, leaders and officers of registered or recognized student organizations, and online and distance education students, and members of any high-risk populations, as determined by FMCC.

Additionally, FMCC offers general and specific training on each of the following topics to all students and employees:

1. FMCC's policy prohibiting relationship violence, sexual assault, and stalking;



2. the definitions of “dating violence,” “domestic violence,” “sexual assault,” and “stalking” under federal law, New York law, and FMCC’s policies;
3. the definition of “consent,” in reference to sexual activity, under federal law, New York law, and FMCC’s policies;
4. a description of FMCC’s educational programs and campaigns to promote the awareness of relationship violence, sexual assault, and stalking;
5. procedures victims should follow if a crime of relationship violence, sexual assault, or stalking has occurred, including information about:
  - a. the importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or may be helpful in obtaining a protection order;
  - b. how and to whom the alleged offense should be reported;
  - c. options about the involvement of law enforcement and campus authorities, including notification of the victim’s option to: (i) notify proper law enforcement authorities, including on-campus and local police; (ii) be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and (iii) decline to notify such authorities;
6. the rights of victims and FMCC’s responsibilities for orders of protection, “no-contact” orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court or by FMCC;
7. information about how FMCC will protect the confidentiality of victims and other necessary parties, including how it will:
  - a. complete publicly available recordkeeping without including personally identifying information about the victim; and
  - b. maintain as confidential any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of FMCC to provide the accommodations or protective measures;
8. FMCC’s policy of providing written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within FMCC and in the community; and
9. FMCC’s policy of providing written notification to victims about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures;
10. FMCC’s policy that, when a student or employee reports to FMCC that the student or employee has been a victim of relationship violence, sexual assault, or stalking, whether the offense occurred on or off campus, the institution will provide the student or employee a written explanation of the student’s or employee’s rights and options;
11. a description of FMCC’s disciplinary proceedings regarding alleged incidents of relationship violence, sexual assault, or stalking, which:
  - a. include a prompt, fair, and impartial process from the initial investigation to the final result;
  - b. are conducted by officials who, at a minimum, receive annual training on the issues related to relationship violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability;
  - c. provide the complainant and the respondent with the same opportunities to have others present during any institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice;

- d. do not limit the choice of advisor or presence for either the complainant or the respondent in any meeting or institutional disciplinary proceeding; and
  - e. require simultaneous notification, in writing, to both the complainant and the respondent, of (i) the result of any institutional disciplinary proceeding that arises from an allegation of dating violence, domestic violence, sexual assault, or stalking; (ii) the institution's procedures for the respondent and the complainant to appeal the result of the institutional disciplinary proceeding, if such procedures are available; (iii) any change to the result; and (iv) when such results become final.
12. information on how to prevent and identify sexual violence;
  13. the potential for re-victimization by responders and its effect on students and employees;
  14. the impact of trauma on victims;
  15. the role alcohol and drugs can play in sexual violence incidents;
  16. appropriate methods for responding to a student or employee who may have experienced sexual violence, including the use of nonjudgmental language;
  17. reporting obligations, including what should be included in a report, any consequences for failing to report, and how requests for confidentiality should be treated;
  18. protections against retaliation; and
  19. other information to prevent violence, promote safety and reduce perpetration.

Additionally, all employees and students are offered information regarding risk reduction. Risk reduction means options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.

Methods of training and educating students may include, but are not limited to:

- President's welcome messaging;
- Peer theater and peer educational programs;
- Online training;
- Social media outreach;
- First-year seminars and transitional courses;
- Course syllabi;
- Faculty teach-ins;
- Institution-wide reading programs;
- Posters, bulletin boards, and other targeted print and email materials;
- Programming surrounding large recurring campus events;
- Partnering with neighboring SUNY and non-SUNY Colleges to offer training and education;
- Partnering with State and local community organizations that provide outreach, support, crisis intervention, counseling and other resources to victims/survivors of crimes to offer training and education. Partnerships can also be used to educate community organizations about the resources and remedies available on campus for students and employees seeking services; and
- Outreach and partnering with local business those attract students to advertise and educate about these policies.

As part of FMCC's public awareness campaign, FMCC may from time-to-time schedule primary prevention, public awareness, and advocacy programs for students and employees. Information regarding these programs can be found on FMCC's website.

If an individual discloses information through a public awareness event such as candlelight vigils, protests, or other public event, FMCC is not obligated to begin an investigation based on such information. However, FMCC may use the information provided at such an event to inform its efforts for additional education and prevention efforts.

FMCC will engage in a regular assessment of their programming and policies to determine effectiveness. FMCC may either assess its own programming or conduct a review of other campus programming and published studies to adapt its programming to ensure effectiveness and relevance to students.

C. Bystander Intervention Training Provided by FMCC

FMCC also offers training on bystander intervention. Bystander intervention means 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 relationship violence, sexual assault, or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene.

FMCC expects all members of the campus community to take reasonable and prudent actions to prevent or stop an act of sexual misconduct. Educating and engaging bystanders are effective ways to help prevent acts of sexual misconduct. Bystanders can help in several different ways, including direct intervention, seeking assistance from an authority figure, notifying campus security, or calling State or local law enforcement.

If you see an act of sexual misconduct: It is important to understand that no individual has the right to be violent, regardless of whether people are in a relationship. Recognizing when acts of sexual misconduct are occurring is the first step to intervening. Required campus education and training programs give a full synopsis on recognizing when sexual misconduct is taking place. If you make the decision to intervene, do so safely – violence does not stop violence, and, if you cannot stop the act with your words, call law enforcement. Do not be afraid to ask an employee or other students for help.

If a victim confides in you: It is important to let victims tell their stories. Listen respectfully, and help them explain and identify what has happened to them. Do not contradict them or play “devil’s advocate” even if parts of the story don’t immediately make sense or even if you would have made other choices when presented with the same scenario or challenges. Help the victim identify others in their network who they can confide in. Ask the victim what they need to feel safe, encourage them to seek medical attention and counseling, and encourage them to report the act if they feel comfortable doing so. The first people that a victim talks to can have a significant impact on the person and his or her ability to report and get through an ordeal. Be a supportive, kind, understanding and nonjudgmental person and you can be a positive force for this victim in seeking the help they require to move forward.

IX. Interplay Between the Criminal Justice Process & the Sexual Misconduct Process Under the Policy

A. FMCC disciplinary proceedings may be instituted against a student charged with sexual misconduct that potentially violates both the criminal law and the Student Conduct Code, without regard to the pendency of civil or criminal litigation in court or criminal arrest or prosecution.

B. The conduct process for any proceeding involving a sexual misconduct charge will run

concurrently with a criminal justice investigation and proceeding, except for temporary delays as requested by external municipal entities while law enforcement gathers evidence, which should not last more than 10 days except when law enforcement specifically requests and justifies a longer delay. The Title IX Coordinator is responsible for determining whether a delay is justified. Determinations made or sanctions imposed by FMCC shall not be subject to change because criminal charges arising out of the same facts giving rise to violation of FMCC rules were dismissed, reduced, or resolved in favor of or against the criminal law defendant.

- C. FMCC will cooperate fully with law enforcement and other agencies in the enforcement of criminal law on campuses and in the conditions imposed by criminal courts for the rehabilitation of student violators (provided that the conditions do not conflict with campus rules or sanctions). Individual members of the College community, acting in their personal capacities, remain free to interact with governmental representatives as they deem appropriate.
- D. Nothing in FMCC's policies limits the rights of students to pursue cases through the criminal justice system. There are significant differences between the two systems because they have different, important goals. In the criminal justice system, prosecutors pursue cases when they believe there is sufficient evidence to prove, beyond a reasonable doubt, that an individual has committed a criminal act. A person who is convicted of a crime will face criminal penalties, such as incarceration, probation, or the imposition of a fine. FMCC's disciplinary process seeks to determine whether an individual has violated College policy. In this process, a preponderance of the evidence standard of proof is used to determine responsibility. A person who is found to have violated FMCC policy may be suspended, expelled or otherwise restricted from full participation in the FMCC community. A document that further explains the differences between the two systems can be found in Addendum A.

#### X. Sexual Misconduct Investigation Process & Procedures

When FMCC becomes aware of an incident of sexual misconduct by or against an employee or student or that has a reasonable connection to FMCC, it will take prompt and appropriate action.

##### A. Initial Assessment

The Title IX Coordinator will make an initial assessment regarding the validity of any information received about the incident. The Title IX Coordinator will also determine whether the alleged incident is an incident of sexual misconduct, or should more appropriately be dealt with under other FMCC policies, such as the Code of Conduct. This initial determination will be made within 3 business days of FMCC becoming aware of allegations that sexual misconduct has been committed.

##### B. Consent to Conduct an Investigation

If the Title IX Coordinator determines that an investigation is required, he or she must seek consent from the reporting individual prior to conducting an investigation. If a reporting individual does not consent to FMCC's request to initiate an investigation, the Title IX Coordinator will weigh the request against FMCC's obligation to provide a safe, nondiscriminatory environment for all members of its community.

FMCC will honor a request to decline to consent to an investigation, unless FMCC determines in good faith that failure to investigate does not adequately mitigate a potential risk of harm to the reporting individual

or other members of the community, based on the Title IX Coordinator's consideration of factors that include, but are not limited to, the following:

- Whether the respondent has a history of violent behavior or is a repeat offender;
- Whether the incident represents escalation in unlawful conduct on behalf of the respondent from previously noted behavior;
- The increased risk that the respondent will commit additional acts of violence;
- Whether the respondent used a weapon or force;
- Whether the reporting individual is a minor; and
- Whether the institution possesses other means to obtain evidence such as security footage, and
- Whether available information reveals a pattern of perpetration at a given location or by a particular group.

If the Title IX Coordinator determines that the request to decline to consent to an investigation can be honored, FMCC will still assist with academic, transportation, employment, and other reasonable and available accommodations.

If the Title IX Coordinator determines that a request to decline to consent to an investigation cannot be honored, and an investigation is necessary, FMCC must notify the reporting individual and take immediate action as necessary to protect and assist them.

#### C. No Contact Order

- Upon receipt of a report of sexual misconduct by a **student**, FMCC will issue a "no contact order," whereby: (1) continued intentional contact with the reporting individual is a violation of FMCC's policy that is subject to additional conduct charges; and (2) if the respondent and a reporting individual observe each other in a public place, it is the responsibility of the respondent to leave the area immediately and without directly contacting the reporting individual. This may include establishing an appropriate schedule for the respondent to access applicable buildings and property of FMCC at a time when such buildings and property are not being accessed by the reporting individual.
- When the **respondent** is a **non-student**, reporting individuals have the right to make a request for FMCC to impose a "no contact order."
  - To make such a request, reporting individuals should contact: Title IX Coordinator, Arlene Spencer, Student Welcome Center A111, 518-736-3622 ext. 8100 or email [arlene.spencer@fmcc.edu](mailto:arlene.spencer@fmcc.edu) or Davida Capece, Public Safety Office, Physical Education Building, P144, 518-736-3622 ext. 8405, [dcapece@fmcc.edu](mailto:dcapece@fmcc.edu).
- Upon request, both the respondent and the reporting individual are entitled to a prompt review, reasonable under the circumstances, of the need for and terms of the no contact order, including potential modification, in which they are allowed to submit evidence in support of their requests. Requests to review a no contact order should be submitted to the Dean of Student Affairs. If a request for review is received from one party, the other party will be notified of the request for review. The Dean of Student Affairs will issue a determination

in response to the request and notify both parties of the determination.

D. Interim Measures and Accommodations

- FMCC is obligated to provide reasonable and available interim measures and accommodations that effect a change in academic, employment, transportation or other applicable arrangements in order to help ensure safety, prevent retaliation and avoid an ongoing hostile environment.
- When the **respondent** is a **non-student** but is a **member of the FMCC community** and presents a continuing threat to the health and safety of the community (only), reporting individuals have the right to subject the respondent to interim measures in accordance with applicable collective bargaining agreements, employee handbooks, and FMCC policies and rules.
  - 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:
    - Title IX Coordinator, Arlene Spencer, Student Welcome Center A111, 518-736-3622 ext. 8100 or email [arlene.spencer@fmcc.edu](mailto:arlene.spencer@fmcc.edu).
- When the respondent is a visitor, vendor, or contractor, a *persona non grata* letter may be issued consistent with the Code of Conduct, § VII.
- Upon request, FMCC will provide both the respondent and the reporting individual a prompt review, reasonable under the circumstances, of the need for and terms of any such interim measure and accommodation that directly affects him or her, in which he or she is allowed to submit evidence in support of his or her request. Requests to review interim measures should be submitted to the Dean of Student Affairs. If a request for review is received from one party, the other party will be notified of the request for review. The Dean of Student Affairs will issue a determination in response to the request and notify both parties of the determination.

E. Commencement of the Investigation

When an investigation is commenced, the respondent must be informed, as promptly as possible, of:

- the specific rule, law, Policy and/or Code of Conduct provisions alleged to have been violated;
- the date, time, location and factual allegations concerning the violation;
- in what manner the specific rule, law, Policy and/or Code of Conduct are alleged to have been violated, and
- the sanction or sanctions that may be imposed on the respondent based upon the outcome of any conduct process.

Within 3 business days of determining that an investigation is necessary, the Title IX Coordinator, or his/her designee, who shall be a trained investigator, and who does not have a conflict of interest, will promptly commence a fair, complete, thorough, and impartial investigation, which provides a meaningful opportunity to be heard. The designated investigator must have received annual training that covers topic

including, but not limited to, the following: (1) issues related to sexual misconduct, (2) how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability; (3) conducting investigations of sexual misconduct; (4) the effects of trauma; (5) impartiality; (6) 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 (7) FMCC’s policies and procedures, including the Policy.

If the Title IX Coordinator is implicated in the report, the President will be responsible for designating a trained investigator to conduct the investigation. If it would be inappropriate for the Title IX Coordinator or President to designate an investigator to conduct the investigation, then the Chair of the Board of Trustees will make this designation.

#### F. Standard of Evidence

The standard of evidence used to evaluate a report of an incident of sexual misconduct by or against an employee or student is a “preponderance of the evidence.” Under this standard, a determination must be made on the basis of whether it is more likely than not that the respondent student or employee violated the Policy.

#### G. Investigation Procedures

In investigating the complaint, the designated investigator shall:

- Meet with the appropriate individuals and review all appropriate records that bear on the case.
- Provide the complainant and the respondent with a copy of the Policy.
- Discuss the allegations in the complaint with the complainant and respondent at separate meetings, and provide the complainant and respondent with equal opportunities to identify witnesses and present evidence supporting their respective positions at these meetings.
- Provide the complainant and the respondent with the same opportunities for a support person or advisor of their choice throughout the process, including any meeting, conference, hearing or other procedural action. An attorney for either the complainant and the respondent, however, may be present but may not have a speaking role during such meeting, conference, hearing, or other procedural action.
- Attempt, where appropriate, to resolve the complaint by exploring and suggesting possible solutions to the problem with all involved parties, provided, however, that the complainant or accuser will not be required to participate in mediation with the respondent.
- (If the preceding step does not resolve the problem): Make and transmit a preponderance of the evidence determination in the matter of the allegation of an incident of sexual misconduct to the respondent, complainant, and, if the respondent is an employee, the senior officer for the unit in which the respondent is employed (or the President if the respondent is a senior officer), or, if the respondent is a student, the Dean of Student Affairs.

Additionally, in cases where the reporting individual or respondent are students, the investigator will provide the students with:

- reasonable advance written or electronic notice of any meeting they are required to or are eligible to attend,

- an opportunity to submit evidence during an investigation concerning a report of sexual misconduct, and
- the opportunity to exclude (1) their own prior sexual history with persons other than the other party in the conduct process and (2) their own mental health diagnosis and/or treatment from the investigator's consideration when determining responsibility. (However, the investigator may consider past findings of relationship violence, stalking, or sexual assault when determining the sanction to be imposed).

The time necessary to complete an investigation will vary depending upon the facts of a particular case. In most cases, investigations will be completed within 60 days of receipt of a report.

#### H. Conclusion of the Investigation

##### 1. Draft Report

The Title IX Investigator will prepare a draft investigation report. Once that draft is prepared the following will occur:

- a. First, each witness will be permitted to review the portion of the report that memorializes their statements to investigators. The witness will be permitted to suggest changes, offer clarifications, and make additions. The witness will ultimately be asked to affirm, in writing, (1) that they are satisfied that they have shared all relevant information known to them, and (2) that the report is an accurate representation of their conversations with the investigators.
- b. Next, the complainant and the respondent(s) will be permitted to review the entire draft report. With respect to their own statements, they will be permitted to suggest changes, offer clarifications, and make additions. Each party will also be given the opportunity to respond to the content of the draft report, request that additional questions be asked of witnesses or the other party to the complaint, and to offer additional evidence or information.
- c. If one party has additional questions, or if additional evidence is offered, the investigator will follow up on those questions or the evidence and if relevant, will include it in the draft report. The process set forth in paragraph (b), above, may be repeated, in the discretion of the investigator.

##### 2. Final Report

- a. The investigator shall prepare final written findings of fact and recommendations with respect to whether it is more likely than not that the incident of an incident of sexual misconduct occurred, appropriate disciplinary actions, if any, and/or other appropriate remedial measures.
- b. Once the final investigation report is complete, the parties will be informed, in writing, of the outcome, within 2 business days of the issuance of the determination. This written notice will include the result of the investigation, any recommended sanctions, the



rationale for the result and any recommended sanctions, the findings of fact, and a notification if conduct charges will be pursued and/or continued.

- c. Delivery of this outcome will not be delayed to either party, and should occur as nearly simultaneously as possible, without unnecessarily bringing those in conflict into close proximity to each other. Should any change in outcome occur prior to finalization, all parties will be timely informed in writing, and will be notified when the results of the resolution process become final.
- d. If the investigator concludes that the respondent student or employee did not commit sexual misconduct, FMCC will not pursue discipline against the student or employee. The parties will be informed of their potential rights to exercise a request for an appeal of the determination, if applicable. If an investigator determines that a student did not commit sexual misconduct, the reporting individual has the right to appeal the Investigator's finding of no violation to an Appellate Board within two (2) business days of the decision.
- e. If the investigator concludes that it is more likely than not that the respondent student or employee committed sexual misconduct, FMCC will take the matter very seriously, and will pursue (or continue to pursue) internal disciplinary proceedings against the respondent. After receiving the investigator's decision, the Title IX Coordinator will refer the matter to the Director of Human Resources (for employees) or Dean of Student Affairs (for students) to determine whether to pursue disciplinary charges, within 2 business days of the investigator's determination. The disciplinary proceedings will then be commenced within 5 business days of the decision to pursue disciplinary charges.

#### I. Remedial Measures

If the investigation reveals that sexual misconduct did occur, FMCC will take appropriate remedial measures necessary to end such conduct, prevent any such future conduct, and correct any personnel or academic decisions made which are related to the prohibited conduct. Remedies may include, but are not limited to, continuing or commencing any of the above-listed "interim measures." These remedies are separate from, and in addition to, any interim measures that may have been provided prior to the conclusion of the investigation.

#### XI. Student Discipline for Sexual Misconduct

Student discipline for sexual misconduct will not be handled through FMCC's Code of Conduct. Instead, it will be handled under the following procedure.

##### A. Student Conduct Charges

1. Following an investigation pursuant to section X of this Policy, which has resulted in a finding that it is more likely than not that the respondent committed one or more acts of sexual misconduct, the Dean of Student Affairs will promptly file charges.
2. All charges shall be presented to the respondent student in written form, and referred to a Student Life Hearing Board.

## B. Interim Measures Pending Hearings

1. While a hearing is pending against a student, that student's degrees, grade reports, and transcripts will not be issued until the matter is resolved.
2. "No contact" orders will remain in effect pending the outcome of the hearing.
3. Any interim measures and accommodations may remain in effect pending the outcome of the hearing.
4. Interim Suspension: In certain circumstances, the Dean of Student Affairs, or a designee, may impose a College suspension prior to the hearing before a Student Life Hearing Board.
  - a. *Mandatory Interim Suspension* – If a student accused of sexual misconduct is determined to present a continuing threat to the health and safety of the community, FMCC must subject the respondent student to interim suspension pending the outcome of a conduct process. During an interim suspension, the respondent student shall be denied access to the campus (including classes) and/or all other College activities or privileges for which the respondent student might otherwise be eligible, as the Dean of Student Affairs or his or her designee may determine to be appropriate.
  - b. *Permissible Interim Suspension* – When the respondent is not a student, s/he may be subject to an interim suspension, upon request of the reporting individual or in the discretion of the Dean of Student Affairs:
    - i. when s/he presents a continuing threat to the health and safety of the FMCC community; and
    - ii. consistent with an applicable collective bargaining agreement, employee handbook or policy.
  - c. *Review of Interim Suspension* – FMCC provides both the respondent and the reporting individual, upon request and consistent with FMCC's policies and procedures, a prompt review, reasonable under the circumstances, of the need for and terms of an interim suspension, including potential modification, in which they are allowed to submit evidence in support of their request. Requests to review an interim suspension should be submitted to the Dean of Student Affairs. If a request for review is received from one party, the other party will be notified of the request for review. The Dean of Student Affairs will issue a determination in response to the request, and notify both parties of the determination.

## C. Student Conduct Hearings

### 1. Rights of Students

- Throughout student conduct proceedings, the student respondent and the reporting individual will both have:
  - The same opportunity to be accompanied by an advisor of their 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 Policy.

- The right to a prompt response to any complaint and to have charge(s) adjudicated in an impartial, timely, and thorough manner by individuals who receive annual training in conducting investigations of sexual violence, the effects of trauma, impartiality, the rights of the 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, relationship violence, and stalking.
- The right to a hearing 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.
- The right to receive advance written or electronic notice of the date, time, and location of any meeting or hearing they are required to or are eligible to attend. Respondents 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.
- 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.
- The right to offer evidence and to review available relevant evidence in the case file (or otherwise held by FMCC).
- The right to present evidence and testimony at a hearing.
- The right to a range of options for providing testimony via alternative arrangements, including telephone/videoconferencing or testifying with a room partition.
- 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 College disciplinary stage that determines responsibility. Past findings of relationship violence, stalking, or sexual assault may be admissible in the disciplinary stage that determines sanction.
- 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.
- The right to make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.
- 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.
- The right to written or electronic notice about the sanction(s) that may be imposed on the respondent 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.
- 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.
- 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.

- The right to choose whether to disclose or discuss the outcome of a conduct hearing.
- The right to have all information obtained during the course of the conduct process be protected from public release until the appeals panel makes a final determination unless otherwise required by law.

## 2. Review of the Case File

The complainant and the respondent will be given the opportunity to review available evidence in the case file, or otherwise in FMCC's possession or control, that may be used in a hearing or investigation and/or may exonerate or show responsibility in the case. FMCC may place reasonable restrictions on access to evidence, such as time, place and manner restrictions, heightened restriction for sensitive information that is not directly relevant to the questions raised in the investigation or hearing, and a limit on students or their advisors of choice engaging in "fishing expeditions" of all records maintained by FMCC that in any way relate to any of the parties. The complainant, the respondent, and their advisors are not entitled to generalized pre-hearing discovery, or to copies of all available evidence, but are instead entitled to access the evidence directly relevant to the specific case, as reasonably determined by FMCC.

## 3. Hearing Rules

For all disciplinary hearings by the Student Life Hearing Board involving one or more charges of sexual misconduct, the following rules apply:

- a. *Standard of Evidence.* The standard of evidence used to evaluate a charge is a "preponderance of the evidence." Under this standard, a determination must be made on the basis of whether it is more likely than not that the respondent student or employee committed an act of sexual misconduct.
- b. *Presumption of "Not Responsible".* The respondent is presumed to be "not responsible" until FMCC has established evidence, testimony or information that would allow the decision maker to find the respondent responsible.
- c. *Rules of Evidence.* Formal rules of process, procedure, and/or technical rules of evidence, such as those which are applied in criminal or civil court, do not apply in these hearings.
- d. *Student Life Hearing Board Members.*
  - i. Student Life Hearing Board hearings must be conducted by Student Life Hearing Board members who do not have a conflict of interest and who have received annual training on issues related to conducting investigations of sexual misconduct, 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, how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability, FMCC's policies and procedures, and other issues including, but not limited to relationship violence, stalking and sexual assault.
  - ii. If the respondent or the complainant wishes to challenge the placement of any member(s) of the Student Life Hearing Board, he or she must raise this issue at the start of the Student Life Hearing Board hearing by bringing the challenge to the

attention of the Dean of Student Affairs, who will hear the reasons for such challenge. Any deliberations before the Student Life Hearing Board as to the challenge should be made without the respondent or the complainant present. The Dean of Student Affairs, will determine whether to support the challenge. Any member(s) so removed will be replaced as quickly as possible by the Dean of Student Affairs, or the Student Life Hearing Board hearing may simply proceed without the removed member, at the discretion of the Dean of Student Affairs.

- e. *Notice.* Students must receive reasonable advance written or electronic notice of:
  - i. any meeting they are required to or are eligible to attend,
  - ii. the specific rule, law, Policy and/or Code of Conduct provision(s) alleged to have been violated;
  - iii. the date, time, location and factual allegations concerning the violation;
  - iv. in what manner the specific rule, law, Policy and/or Code of Conduct provision(s) are alleged to have been violated; and
  - v. any possible sanctions.

FMCC may provide notice of the date, time, location and factual allegations that have been reported, specific provisions reported to have been violated, and associated sanctions in multiple notices and/or separate communications. Nothing prohibits FMCC from holding students accountable for violations that are not referenced in the initial charge letter but are learned about from evidence, testimony, or admission at a hearing or during the investigatory process, consistent with FMCC policies and due process, where applicable.

- f. *Timing.*
  - i. A time shall be set for a hearing, not less than five (5) nor more than fifteen (15) business days after the student has been notified of the hearing. Minimum and maximum time limits for scheduling of hearings may be modified at the discretion of the Dean of Student Affairs.
  - ii. Proceedings include timely notice of meetings and timely and equal access to information and evidence.
  - iii. The proceedings are completed within a reasonably prompt, designated timeframe. However, the timeframe may be extended for good cause upon written notice to the complainant and respondent.
- g. *Advisors.* The complainant and the respondent may select any advisor of their own choosing, including an attorney, who must be permitted to assist and advise a complainant or respondent throughout the process, including during the hearing. The complainant and/or the respondent is responsible for presenting his or her own information, and therefore, advisors (including an attorney, when applicable), are not permitted to speak or to participate directly in any hearing before a Student Life Hearing Board. The selection of an advisor is the responsibility of the complainant or respondent. Any costs associated with the advisor are at the expense of the student. Advisors who violate FMCC policies may be removed from a hearing or meeting. A student should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the Student Life Hearing Board hearing because delays will not normally be allowed due to the scheduling conflicts of an advisor. FMCC is not required to recess the hearing

or allow the student to replace the banned advisor with a new advisor. FMCC is not required to limit its capacity to conduct its conduct process due to scheduling or other delays (whether genuine or tactical) by an advisor of choice.

h. *Attending the Hearing.*

- i. The complainant, respondent, and their advisor(s), if any, shall be allowed to attend the entire portion of the Student Life Hearing Board hearing at which information is presented.
- ii. The complaining student may choose to:
  - attend the Student Life Hearing Board in the same room with the respondent;
  - attend the Student Life Hearing Board in the same room but separated by a screen from the respondent;
  - attend the Student Life Hearing Board in the same room with the respondent and police officer present;
  - not attend the Student Life Hearing Board but submit a written statement; or
  - not attend the Student Life Hearing Board and not submit a written statement.
- iii. The respondent may choose to:
  - attend the Student Life Hearing Board;
  - not attend the Student Life Hearing Board but submit a written statement; or
  - not attend the Student Life Hearing Board and not submit a written statement.
- iv. If a respondent student, with notice, does not appear at a Student Life Hearing Board hearing, the information in support of the charges shall be presented and considered, even if the respondent is not present.

i. *Right to Present and Exclude Evidence.*

- i. At any hearing conducted by the Student Life Hearing Board, the complainant and respondent students will be offered an opportunity to present evidence and testimony. FMCC will try to arrange the attendance of witnesses who are members of the FMCC community, if reasonably possible, and who are identified by the complainant and/or respondent, at least two weekdays prior to the Student Life Hearing Board hearing.
- ii. Students will have 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.
- iii. Students will have the right to make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.
- iv. Students will be provided with the opportunity to exclude (1) their own prior sexual history with persons other than the other party in the conduct process and (2) their own mental health diagnosis and/or treatment from admittance in any stage of the disciplinary proceeding where responsibility is determined (including determinations by the Investigator, Student Life Hearing Board, and Appeals Board). However, past findings of relationship violence, stalking, or sexual assault may be admissible in disciplinary stages that determine sanctions. Further, if a complainant engaged in sexual activity with more than one partner in a short time period (as reasonably determined by the institution) and FMCC alleges that the complainant sustained injuries during non-consensual sexual activity with the respondent, the fact of consensual or non-consensual sexual activity with the unrelated individual may be

admitted for the limited purpose of addressing how injuries were sustained. Such evidence may not be used to show a pattern of engaging in sexual activity by the complainant or to allege that if the complainant consented to activity with the unrelated individual, she or he was also consenting to sexual activity with respondent.

- j. *Privacy and Safety Concerns.*
    - i. Hearings normally shall be conducted in private.
    - ii. The Student Life Hearing Board may accommodate concerns for the personal safety, well-being and/or fears of confrontation of the complainant, respondent, and/or other witness during the hearing by providing separate facilities, by using a visual screen, and/or permitting participation by telephone, video tape, written statement or other means, where and as determined in the sole judgment of the Dean of Student Affairs to be appropriate.
  - k. *Withdrawal.*
    - i. If the respondent withdraws from FMCC while student conduct proceedings are in process, the student does so with charges pending. FMCC reserves the right to adjudicate those charges when/if the student returns to FMCC.
    - ii. The complainant must be permitted to withdraw from the hearing process at any time. If the complainant chooses to withdraw, however, FMCC may choose to proceed with Student Conduct charges, without the complainant's participation. If FMCC continues a hearing or takes action after a complainant withdraws, the complainant has the right to participate as much or as little as the complainant wishes.
  - l. *Transcript.* There shall be a single verbatim written record, an unofficial transcript, of all Student Life Hearing Board hearings (not including deliberations). The record shall be the property of FMCC. The respondent and complainant will be given reasonable access to the full and fair record of the hearing, and FMCC will maintain a copy of the record for at least five years after the hearing. If a participant requests an official transcript, FMCC may choose to allow licensed court reporters to make transcripts of a hearing or proceeding, at the expense of the participant in the hearing who requests an official transcript. If one participant creates an official transcript, FMCC may be required to provide that official transcript to the other participant(s) upon request.
4. Determination of Responsibility and Sanctions
- a. After the portion of the Student Life Hearing Board hearing concludes in which all pertinent information has been received, the Student Life Hearing Board will make a finding (by majority vote) as to whether it is more likely than not that the respondent committed sexual misconduct and/or violated any section of the Code of Conduct that the student is charged with violating.
  - b. If the Student Life Hearing Board determines by a preponderance of the evidence that the respondent committed sexual misconduct and/or violated the Code of Conduct, the Student Life Hearing Board will then recommend whether to impose a sanction, and the severity of the sanction.

- c. The sanctions that may be recommended by the Student Life Hearing Board include the following:
- *Educational Sanctions* – Educational sanctions may be imposed in addition to or instead of the aforementioned sanctions. For example, students may be required to submit a paper or write letters of apology. Students may have community service projects or educational workshops assigned.
  - *Order of No Contact* – A student may be restricted from having any contact, either directly or through his/her friends and acquaintances, with another member of the College community. This sanction can include but is not limited to the exclusion from any campus building or property, and avoidance of a specified College member, whether on College property or not, and placing an affirmative duty on the student to maintain a specified distance away from the designated College member.
  - *Administrative Relocation* – A student can be required to relocate to a new classroom assignment during or after the conclusion of the hearing process. This sanction is utilized to ensure the safety and peace of mind of the campus community at the discretion of the Dean of Student Affairs.
  - *Restitution* – A student is required to make payment to the College or to other persons, groups, or organizations for damages incurred as a result of violations of the Code of Conduct.
  - *Official Warning* – A student receives notification from the Dean of Student Affairs or designee, indicating that a violation of the Code of Conduct has occurred and warning that any subsequent violation may be treated more seriously.
  - *Campus Life Probation* – A defined period of time whereby any registered student is given an opportunity to modify his or her behavior or risk more severe sanctions. Any subsequent violation of the Code of Conduct, while on Campus Life Probation, may result in further disciplinary action.
  - *Disciplinary Probation* – A student on disciplinary probation is no longer in good standing with the College. He or she cannot be a member of recognized student organizations, serve as a representative of the College, or participate in intramural, club, or intercollegiate sports for a period of time. [The minimum time is one semester. The maximum time is four semesters.] Any violation of the Code of Conduct by the student during the time he or she is on disciplinary probation may result in suspension or expulsion from the College.
  - *Suspension or Expulsion From One or More Extracurricular Activities* – A student may be temporarily or permanently excluded from one or more extracurricular activities, including inter-scholastic sports and student clubs.
  - *Suspension from the College* – A student may not be a registered student, be present on campus, or attend College sponsored events for any reason while he or she is suspended from the College for a designated period. The minimum length of a suspension is one semester; there is no maximum. The student is not entitled to a refund of any tuition or fees.
  - *Expulsion from the College* – A student may not ever again be a registered student, be present on campus, or attend College sponsored events. The student is not entitled to a refund of any tuition or fees.



- d. The Student Life Hearing Board on Discipline may consider mitigating and aggravating circumstances when choosing whether or not to impose a sanction and the severity of the sanction, including without limitation any or all of the following:
  - Nature of the offense;
  - Severity of the damage, injury, or harm resulting from the offense;
  - Whether the respondent promptly took responsibility for his/her actions;
  - Present demeanor of the respondent;
  - Past disciplinary history of the respondent, which includes, without limitation, completion of or pending disciplinary sanctions from past cases;
  - The respondent's honesty, or lack thereof, and the cooperation demonstrated during the investigation of the complaint and subsequent disciplinary proceeding;
  - Whether the charge involved an action directed at another based upon his/her race, religion, ethnicity, national origin, gender, age, physical ability, or sexual orientation;
  - The recommendation of associated victims or parties to the incident; and
  - Any other factor deemed relevant by the Student Life Hearing Board.
- e. The Student Life Hearing Board will then submit its findings and recommended sanctions to the Dean of Student Affairs for review.
- f. The Dean of Student Affairs may, following a review of the record, accept or reject the Student Life Hearing Board's determination of fact and the sanction recommendation. The Dean of Student Affairs reserves the right to review and amend any decision of the Student Life Hearing Board.

#### D. Notification

Within five (5) business days of the receipt of the Student Life Hearing Board's written report and recommendation, the Dean of Student Affairs will notify both parties simultaneously in writing of the result of the investigation, any sanctions imposed, the rationale for the result and the actual sanctions imposed, and the findings of fact, by mailing a copy of results by e-mail and certified mail to the last address provided to the College by the respondent and complainant. Should any change in outcome occur prior to finalization, all parties will be timely informed in writing, and will be notified when the results of the resolution process become final.

The parties will also be informed of their right to appeal the decision to an Appellate Board within two (2) business days of the decision, pursuant to the procedures set forth below.

The decision of the Dean of Student Affairs or his/her designee shall take effect immediately unless otherwise provided for in the student notification, and such decision shall be final except as provided for in the appeal process.

#### E. Disclosure of Information Following Hearing

Students have the option to choose whether to disclose or discuss the outcome of the Student Life Hearing Board hearing. Unless otherwise required by law, FMCC will protect all information obtained about students during the course of the disciplinary process from public release, until the students' rights to appeal lapse, or the Appeals Board makes a final determination.

## F. Appeals Process

### 1. Grounds for an Appeal

Appeals can be requested for one or more of the following reasons only:

- To determine whether the penalty is inappropriate to the finding of responsibility;
- To determine whether the Student Life Hearing Board's findings are supported by the evidence;
- To determine whether the student's procedural rights were violated;
- To determine whether new evidence, which was unavailable at the original proceeding, has been discovered;
- To review an investigator's final determination that no sexual misconduct violation occurred; and
- To review any portion of a Student Life Hearing Board's final determination regarding a sexual misconduct charge or complaint.

### 2. Appeals Not Following a Hearing

- A final determination by an investigator or the Dean of Student Affairs that does not follow a hearing may be appealed by the respondent(s) or the complainant to an Appellate Board within two (2) business days of the decision. Such appeals shall be in writing and shall be delivered to the Dean of Student Affairs. Upon receipt of an appeal, the Dean of Student Affairs will confirm that the appeal is supported by one of the reasons listed above.
- If no appeal is submitted to the Dean of Student Affairs within two (2) business days of the decision, the determination of the investigator or Dean of Student Affairs will become final, unless:
  - a. An appeal is filed by the respondent(s), the complainant, and/or the complainant after the deadline, and
  - b. The appellant can establish good cause for the delay in filing the appeal.
- If a proper appeal and submission are filed, the Dean of Student Affairs shall appoint an Appellate Board. All case documentation shall be delivered to each member of the Appellate Board.
- The Dean of Student Affairs shall convene an Appellate Board within ten (10) days of receiving the appeal. The Appellate Board shall reach a determination within ten (10) business days of receiving the appeal.
- The parties will be informed, in writing, of the result of the appeal, the Appellate Board's recommended sanctions, the rationale for the result and for the Appellate Board's recommended sanctions, and the Appellate Board's findings of fact. Delivery of this outcome will not be delayed to either party, and should occur as nearly simultaneously

as possible, without unnecessarily bringing those in conflict into close proximity to each other.

- Appellate Board proceedings will be conducted by individuals who have received annual training on issues related to 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, how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability, FMCC’s policies and procedures, and other issues including, but not limited to relationship violence, stalking and sexual assault.

### 3. Appeals Following a Hearing

- A final determination by the Dean of Student Affairs following a hearing may be appealed by the respondent(s) or the complainant to an Appellate Board within two (2) business days of the decision. Such appeals shall be in writing and shall be delivered to the Dean of Student Affairs. Upon receipt of an appeal, the Dean of Student Affairs will confirm that the appeal is supported by one of the reasons listed above.
- If no appeal is submitted to the Dean of Student Affairs within two (2) business days of the decision, the determination of the Student Life Hearing Board will become final, unless:
  - a. An appeal is filed by the respondent(s) and/or the complainant after the deadline, and
  - b. The appellant can establish good cause for the delay in filing the appeal.
- If the Dean of Student Affairs determines that the appeal falls within one of the above-listed categories, a copy of the official record of the hearing will be made available to the appellant as soon as it is available.
- Once the appellant receives the hearing record, the appellant will have five (5) business days from his or her review of the hearing record to present his/her reasons for the appeal with supporting documentation. The other party must be provided with notice of the appeal, with access to the same evidence made available to the appellant (including the hearing record), and with the same opportunity to submit supporting documentation. However, the other party is not required to submit supporting documentation.
- If the appellant fails to submit supporting documentation within five (5) business days after review of the hearing record, the determination of the Student Life Hearing Board will become final, unless:
  - a. The appellant’s submission is filed after the deadline, and
  - b. The appellant can establish good cause for the delay in filing the submission.
- If a proper appeal and submission are filed, the Dean of Student Affairs shall appoint an Appellate Board. The submission, hearing record, and all case documentation shall be

delivered to each member of the Appellate Board.

- The Dean of Student Affairs shall convene an Appellate Board within ten (10) days of receiving the appellant's submission. The Appellate Board shall reach a determination within ten (10) business days of receiving the appellant's submission.
- The parties will be informed, in writing, of the result of the appeal. The parties will also be informed in writing of the Appellate Board's recommended sanctions, the rationale for the result and for the Appellate Board's recommended sanctions, and the Appellate Board's findings of fact. Delivery of this outcome will not be delayed to either party, and should occur as nearly simultaneously as possible, without unnecessarily bringing those in conflict into close proximity to each other.

#### G. Transcript Notations

If a student is suspended or expelled after being found responsible for sexual misconduct, FMCC must make a notation on the student's transcript that they were "suspended after a finding of responsibility for a Code of Conduct violation" or "expelled after a finding of responsibility for a Code of Conduct violation." If a student withdraws from FMCC while such conduct charges related to sexual misconduct are pending against the student, and declines to complete the disciplinary process, FMCC must make a notation on the student's transcript that he or she "withdrew with conduct charges pending." These transcript notations can be appealed by contacting the Registrar, 518-736-3622 ext. 8700, [registrar@fmcc.edu](mailto:registrar@fmcc.edu). Transcript notations for sexual misconduct-related suspensions shall not be removed prior to one year after conclusion of the suspension. Transcript notations for sexual misconduct-related expulsions shall never be removed from a student's transcript. If a finding of responsibility is vacated for any reason, however, the transcript notation must be removed.

#### XII. Employee Discipline for Sexual Misconduct

Employee discipline will be handled through the Office of Human Resources, in accordance with its procedures for complaints against management confidential employees, or for complaints against an employee who is a member of a union, in accordance with the disciplinary procedures set forth in the applicable Collective Bargaining Agreements.

The disciplinary sanctions which may be imposed on employees who have been found responsible for committing sexual misconduct are the following:

- counseling, warning, or reprimand;
- additional training;
- suspension without pay; or
- discharge.

All parties will be informed of their potential rights to exercise a request for an appeal of the disciplinary determination under the applicable policy.

Engaging in sexual misconduct may also lead to civil and/or criminal action under the New York State Penal Law. Any employee who, in violation of FMCC's policy, engages in sexual misconduct, is acting outside the scope of his or her employment and may be personally liable for such actions and their

consequences. In the event legal proceedings are commenced against such an employee, FMCC may decline to provide legal, financial, or other assistance.

### XIII. Prohibition of Retaliation

It is a violation of federal and state law and this policy for any employee or student to retaliate against any student or employee for exercising any rights or responsibilities under the Violence Against Women Act, the Clery Act, and/or Title IX. This includes retaliating against a student or employee who reports an incident of an incident of sexual misconduct in good faith, or furnishes information or participates in any manner in an investigation of such a report, or any hearing related to such report. Retaliation includes any conduct directed at someone because he or she engaged in such protected activity, which might deter a reasonable student or employee from making or supporting such a report.

Retaliation is unlawful and will not be tolerated. FMCC will protect students and employees from retaliation by FMCC, any student, any employee, the respondent, and/or their friends, family and acquaintances within FMCC's jurisdiction. Any individual found to have engaged in retaliation will be subject to disciplinary action, up to and including, termination of employment and/or dismissal from FMCC.

Any employee or student who feels as though someone has subjected him or her to retaliation as a result of a report or participation into the investigation of a report should contact Arlene Spencer, Title IX Coordinator, Student Welcome Center, A111, 518-736-3622 ext. 8100, [arlene.spencer@fmcc.edu](mailto:arlene.spencer@fmcc.edu), immediately.

### XIV. Institutional Crime Reporting

Reports of certain crimes occurring in certain geographic locations will be included in the FMCC Clery Act Annual Security Report in an anonymized manner that neither identifies the specifics of the crime or the identity of the reporting individual or victim/survivor.

#### Contact Information:

- Arlene Spencer, Title IX Coordinator  
Student Welcome Center, A111  
518-736-3622 ext. 8100  
[arlene.spencer@fmcc.edu](mailto:arlene.spencer@fmcc.edu)
- Davida Capece, Public Safety Office  
Physical Education Building, P144  
518-736-3622 ext. 8405  
[dcapece@fmcc.edu](mailto:dcapece@fmcc.edu)

FMCC 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 reporting individual or victim/survivor). A reporting individual will never be identified in a timely warning.

Reporting Aggregate Data to the New York State Education Department (NYSED)

FMCC will annually report to NYSED the following information about reports of relationship violence, stalking and sexual assault:

- a. The number of such incidents that were reported to the Title IX Coordinator.
- b. Of those incidents in paragraph (a), the number of reporting individuals who sought the institution's judicial or conduct process.
- c. Of those reporting individuals in paragraph (b), the number of cases processed through the Institution's judicial or conduct process.
- d. Of those cases in paragraph (c), the number of respondents who were found responsible through the Institution's judicial or conduct process.
- e. Of those cases in paragraph (c), the number of respondents who were found not responsible through the Institution's judicial or conduct process.
- f. A description of the final sanctions imposed by the institution for each incident for which a respondent was found responsible, as provided in paragraph (d), through the Institution's judicial or conduct process.
- g. The number of cases in the institution's judicial or conduct process that were closed prior to a final determination after the respondent withdrew from the Institution and declined to complete the disciplinary process.
- h. The number of cases in the Institution's judicial or conduct process that were closed because the complaint was withdrawn by the reporting individual prior to a final determination.

NYSED shall create a reporting mechanism for institutions to efficiently and uniformly provide the information outlined in subdivision one of this section. NYSED will create a reporting mechanism for FMCC to annually submit the following information:

- a. How many relationship violence, stalking, and sexual assault incidents were reported to the Title IX Coordinator this year?
- b. From those incidents in paragraph (a), how many reporting individuals wanted to use the student conduct process for adjudication?
- c. How many of these cases were actually processed through the student conduct process?
- d. How many of the respondents in these cases were found responsible?
- e. How many of the respondents in these cases in paragraph (c) were found not responsible?
- f. What sanctions were imposed for each instance where a respondent was found responsible (paragraph [d])?
- g. How many cases closed before adjudication or before finding because the respondent withdrew from the institution?
- h. How many cases closed before adjudication or before finding because the reporting individual withdrew the complaint?

#### XV. FMCC Partnerships

FMCC has entered into partnerships with providers to:

1. provide sexual assault forensic examination to students;
2. provide legal assistance to students (including both respondents and reporting individuals); and
3. provide victim advocacy and support services to victims of sexual misconduct.

FMCC has also entered into a partnership with the New York State Police regarding the protocols and procedures for referring allegations of sexual misconduct, relationship violence, and stalking, sharing information and conducting contemporaneous investigations regarding such allegations.

Addendum A

*A Plain Language Explanation of Distinctions Between the New York State Penal Law and FMCC’s Disciplinary Processes<sup>1</sup>*

	<b>Criminal Justice System</b>	<b>FMCC Disciplinary System</b>
<b>Goals.</b>	Public safety, deterrence, and punishment.	Education; safety; safe and supportive campus environment.
<b>Governing Law.</b>	New York State Penal Code; New York State Rules of Criminal Procedure (or another state’s rules if the crime took place there), Federal Criminal Law, and Rules of Evidence.	Title IX; The Clery Act as amended by the Violence Against Women Act; NYS Education Law sections 129-A and 129-B. More specific rules govern particular Colleges and universities.
<b>How to report and whether there must be action once a report is made.</b>	Crimes involving sexual violence may be reported to campus police (if the campus has police officers), the local police agency, or to the New York State Police. Certain crimes may also be reported to federal law enforcement agents. Once a report is made, the decision whether to investigate is made by the police/law enforcement agency, often in consultation with a District Attorney or other prosecuting agency. An investigation may be conducted without the consent or participation of a reporting individual. The ultimate decision of whether to initiate a criminal prosecution is initially made by a prosecutor. In cases involving felony charges, the final charging decision is made by a Grand Jury.	Victims may disclose sexual violence to various College employees who are designated confidential resources or to others who will try to ensure privacy to the extent consistent with the institution’s obligation to provide a safe educational environment. Disclosures made to a confidential resource will not trigger an investigation. When a report is made to the Title IX Coordinator (TIXC) or another Non-Confidential resource, the TIXC will determine whether an investigation is necessary by weighing a request for confidentiality by the reporting individual against the continuing safety of that person and the safety and best interests of the campus community.

<sup>1</sup> Originally published by Chantelle Cleary, Title IX Coordinator, University at Albany; Lori Fox, General Counsel, Teachers College; Rachel J. Nash, Associate General Counsel, City University of New York; Andrea Stagg, Deputy General Counsel, Barnard College; and Joseph Storch, Associate Counsel, State University of New York on October 28, 2015.

	<b>Criminal Justice System</b>	<b>FMCC Disciplinary System</b>
<b>Who investigates?</b>	Police or other law enforcement officials.	Investigators employed or retained by FMCC; these individuals may work for different departments within FMCC, including, but not limited to, the police/public safety department, student affairs and academic affairs.
<b>Procedures</b>	See Governing Law. Procedures established by police departments, prosecutors' offices, etc.	FMCC policies and Bylaws, which generally incorporate requirements of Governing Law. Collective bargaining agreements may impact some procedures.
<b>Standard of Evidence.</b>	Crimes must be proven "Beyond a Reasonable Doubt."	A violation of disciplinary rules must be found by a "Preponderance of the Evidence" (more likely than not).
<b>Confidentiality.</b>	Law enforcement agencies offer some confidential assistance, but a criminal charge and trial must be public.	FMCC offers confidential resources, but a disciplinary proceeding requires that relevant information be shared with those involved.
<b>Privacy.</b>	Criminal trials must be public.	Disciplinary proceedings are kept as private as possible, but information must be shared with certain individuals within the College, the parties, and pursuant to law.
<b>Who are the parties?</b>	The prosecution and defendant. The victim/survivor is not a party, but often the critical witness for the prosecution	FMCC and the respondent are parties, and the reporting individual has certain rights to participate, as the law provides.
<b>Participation in the process.</b>	In limited circumstances, a criminal prosecution can proceed without the participation or cooperation of the reporting individual, but without a reporting individual's participation, it is generally more difficult to prove a crime beyond a reasonable doubt.	Reporting students cannot be required to participate in the FMCC process. However, FMCC will be limited in its ability to respond if a reporting individual does not participate.
<b>Who initiates the proceedings?</b>	A prosecutor, acting on behalf of the state (or the United States in federal cases).	FMCC initiates proceedings. While rules vary from school to school, they must provide an active role for the reporting individual.



	<b>Criminal Justice System</b>	<b>FMCC Disciplinary System</b>
<b>Testimony.</b>	In a court, testimony is generally public. Other parties are, through counsel, entitled to cross-examine witnesses.	FMCC provides for alternative approaches that permit students to testify without having other parties in the room and/or to ask cross-examination questions only through the disciplinary panel, investigator, or representative of the reporting individual and/or respondent.
<b>Role of attorneys.</b>	Both the state and the defendant are represented by counsel; counsel may question witnesses.	Parties may be advised by attorneys, but the attorneys' roles are limited to quietly speaking with their clients or passing notes.
<b>Mental Health and Sexual History.</b>	In New York, a reporting individual's prior sexual and mental health history is generally, but not always, inadmissible in a criminal case. There are limited circumstances under which directly relevant evidence of that kind may be admitted.	Generally, not admissible, but subject to quite limited exceptions. Education Law 129-b permits parties to exclude information about their prior sexual history with persons other than the other party and also to exclude evidence of their own mental health history in the fact-finding phase of the disciplinary process.
<b>Possible Results.</b>	If a prosecution takes place, the defendant may: <ul style="list-style-type: none"> <li>• plead guilty or "no contest"</li> <li>• have the case dismissed by the judge (on legal grounds)</li> <li>• be found "guilty" or "not guilty" by a judge or jury</li> </ul>	In cases that do not involve sexual assault, mediation or similar procedures are permitted if the parties agree. If there is a formal proceeding, the respondent may be found "responsible" or "not responsible" for violations of the institution's rules. Respondents may also accept responsibility before a finding by an adjudicator.
<b>Sanctions.</b>	An individual found guilty may be fined, imprisoned, or both. In some courts, alternative sanctions are sometimes used.	An individual found responsible for violating FMCC policy may be given a range of sanctions (depending on the severity of the conduct and other factors, such as prior judicial history), ranging from a warning to suspension or expulsion from the institution.