



**SUNY** **Fulton-  
Montgomery**

A State University of New York Community College

# **Clery Act Annual Security Report 2023**

**Completed Fall 2024**

## Table of Contents

I. CONTACT INFORMATION .....	3
II. DEPARTMENT OF PUBLIC SAFETY .....	4
III. COLLEGE LAW ENFORCEMENT.....	4
IV. GEOGRAPHY .....	5
V. CAMPUS CRIME STATISTICS .....	5
VI. CRIMINAL AND INCIDENT REPORTING.....	7
VII. EMERGENCY RESPONSE AND EVACUATION PROCEDURES.....	16
VIII. TIMELY WARNINGS.....	18
IX. BUILDING SECURITY .....	18
X. SECURITY PROGRAMS.....	20
XI. SEXUAL OFFENDER REGISTRY .....	21
XII. SEXUAL ASSAULT POLICY.....	21
XIII. BIAS RELATED CRIME AND HATE CRIME.....	43
XIV. DRUG AND ALCOHOL PREVENTION PROGRAM.....	44
XV. INVESTIGATIONS OF MISSING PERSONS.....	45
XVI. MEDICAL EMERGENCIES .....	46
XVII. GENERAL SAFETY .....	46
XVIII. DOMESTIC VIOLENCE – WORKPLACE VIOLENCE INITIATIVE.....	47
XIX. WEAPONS POSSESSION .....	47
XX. FIREARMS POLICY .....	49
XXI. STUDENT CONDUCT POLICY .....	49
XXII. SAFETY PROGRAMS AND SERVICES .....	51
Appendix A .....	52
Appendix B.....	56

## I. CONTACT INFORMATION

### **Fulton-Montgomery Community College**

2805 State Highway 67  
Johnstown, NY 12095  
518-736-3622

### **Incident Reporting**

518-736-3622 ext. 8405 Non-Emergency

### **Emergencies**

Dial 911

### **Local Fire, Police and Ambulance**

Dial 911

FMCC Department of Public Safety is located in the Physical Education Building, P-144

New York State Domestic Violence hotline – 800-942-6906  
<http://www.nyscadv.org/local-domestic-violence>

## II. DEPARTMENT OF PUBLIC SAFETY

The Department of Public Safety at Fulton-Montgomery Community College (“FMCC” or “FM”) oversees security operations for the college. This department works closely with law enforcement agencies and first responders throughout New York to ensure a safe, secure learning environment for our students and a professional work environment for our faculty and staff. Safety is everyone’s responsibility. The college community is a great place to work and to study; however, it is not immune to the types of problems seen throughout society. Unfortunately, crime is a reality at FMCC. The college’s goal is to provide a safe and secure environment for students, staff, and visitors. However, it is only possible to maintain safety and security when every student and staff member takes an active part in the effort.

**The purpose of this publication is to:**

- Provide an overview of the Department of Public Safety.
- Share crime statistics required by the Jeanne Clery, Disclosure of Campus Security Policy and Campus Crime Statistics Act.
- Inform current and prospective students, staff and visitors about the policies and programs designed.
- Provide information regarding emergency preparedness and planning; and
- Distribute public information regarding fire safety, fire statistics and fire-related information.

## III. COLLEGE LAW ENFORCEMENT

Fulton-Montgomery Community College is located in the Town of Mohawk, County of Montgomery, and State of New York. In conjunction with local law enforcement and individual facility management at our location, the office works to ensure the overall safety of the college community as a whole. The office works cooperatively with outside law enforcement agencies having jurisdiction at FMCC. All federal, state, and local laws apply at FMCC.

FMCC developed memorandums of understanding with local law enforcement to address enforcement of laws at the college, to investigate crimes, to assist in the reporting of missing persons, and to investigate and respond to violent felony crimes under New York Penal Law §70 [in accordance with the provisions of Procedure #3650, dated July 1, 2004, set forth by the State University of New York, Campus Conduct and Other College Property Used for Educational Purposes, and The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, codified at 20 USC 1092 (f), Crime Awareness and Campus Security Act of 1990 otherwise known as the Campus Safety Act].

The Department of Public Safety possess law enforcement authority. Although FMCC has developed policies and procedures to ensure that students and their possessions are protected as much as possible, it is primarily the responsibility of the student, faculty, or staff member to provide for his or her own personal safety.

## IV. GEOGRAPHY

- **Geographic Locations Used Under the Clery Act on Campus:**

Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes and any building or property that is within or reasonably contiguous to paragraph (1) of this definition, that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes (such as a food or other retail vendor).

- **Non-campus Building or Property:**

Any building or property owned or controlled by a student organization that is officially recognized by the institution; or any building or property owned or controlled by an institution that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.

- **On Public Property:**

All public property, including thoroughfares, streets, sidewalks, and parking facilities, which is within the campus, or immediately adjacent to and accessible from the campus.

## V. CAMPUS CRIME STATISTICS

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act is the federal law, originally known as the Campus Security Act, which requires colleges and universities across the United States to disclose information about crime on and around their campuses. The Clery Act also requires reporting crimes on public property not owned or controlled by the college.

Colleges and universities are required to publish an annual report every year that contains three years' worth of campus crime statistics and certain security policy statements including sexual assault policies that assure basic victims' rights, the law enforcement authority of campus Police, Security/Public Safety and where students should report crimes. The report is made available to all current students and employees. Prospective students and employees are notified of its existence and given an opportunity to request a copy.

It remains the responsibility of the Department of Public Safety for the collection of crime reports and distribution of the annual crime statistics and report by Oct. 1 of each calendar year. The FMCC "Annual Safety and Security Report and Procedures" is available to all current and prospective FMCC students and employees upon request at the Office of Public Safety. FMCC's crime statistics can be found in **Appendix A** of this report.

The "Annual Safety and Security Report and Procedures" includes:

- Statistics on the number of on-campus murders, rapes, robberies, aggravated assaults, burglaries, motor vehicle thefts, bias-related crimes and arrests for weapons possessions and liquor and drug abuse violations.
- Policies regarding security, access to college and other facilities, and college law enforcement.
- Annual safety and security report and procedures.
- Procedures for reporting crimes and other emergencies.
- Information on college sexual assault and rape awareness programs, procedures to follow when a sex offense occurs, disciplinary action procedures, counseling opportunities and notification to students that FMCC will make reasonable changes of a victim's academic situation if the victim so chooses.
- Policies on the use, possession and sale of alcoholic beverages and illegal drugs.
- A description of FMCC's programs informing the campus community about alcohol and drug abuse education, crime prevention and campus security practices.
- Sex offender registry information, New York State Sex Offender Registry and NYS Sex Offender Registry home page at [www.criminaljustice.ny.gov/](http://www.criminaljustice.ny.gov/). You also can call 800-262-3257.
- Procedures for emergency response, emergency communications and emergency evacuation procedures.

#### A. Process to Gather Information

The Department of Public Safety is responsible for compiling and disseminating the Campus Safety Report annually as required by the Federal Student Right-to-Know Law and Campus Security Act, which was signed into law November 1990.

- 1) On an annual basis, the Department of Public Safety solicits information from any and all law enforcement agencies with geographical jurisdiction over FMCC about criminal activity reported to those agencies. The information requested outlines crimes reported to the agencies that happened on or near an FMCC location or involved members of the college community.
- 2) This report of crimes reflects but is not limited to crimes outlined under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act).
- 3) The Department of Public Safety compiles data as outlined under the Clery Act and makes them available annually to the college community. Upon request, this data shall be provided to prospective students and employees.
- 4) Data obtained and reported to the Department of Public Safety is held for seven years after an individual year report is published.

## VI. CRIMINAL AND INCIDENT REPORTING

### A. Criminal Offense

If a criminal offense occurs at any of the college's locations, it must be reported immediately. Notification must be made to the Department of Public Safety or local police and or any FMCC faculty or staff members. Individuals who are victims of a crime at or near a college facility are encouraged to accurately and promptly report crimes acts (1) internally to Public Safety and/or college officials, and (2) externally to appropriate police agencies, if the victim elects to, or is unable to, make an internal report.

In each case, DPS Officers will file an incident report and assign a case number. Victims or witnesses to crime also may report the incident to Public Safety directly. Emergency contact information for local police is located on the public safety and security website. During normal business hours, college officials will be available to assist victims and witnesses in reporting incidents to police. Criminal offenses occurring on campus should be reported directly to DPS or local law enforcement.

### B. Incident Reporting Procedure

Established guidelines to assist FMCC college community members in reporting of incidents that may occur to students, faculty, and staff. Fulton-Montgomery Community College is regulated by statute to report specific criminal incidents that have direct correlation to the college. The guidelines that follow will assist individuals in reporting of incidents and streamline the notification process.

- Incidents: An incident may be defined as, an action or event that is, has or is going to occur that has an effect on someone or something. For the purposes of this procedure an "incident" is a crime, emergency, or incident immediately dangerous to life, health or to the college as a whole.
- Incident Report: Official report taken by FMCC DPS with regards to an incident documenting information regarding said incident. A police agency report will serve as an official report under this definition and will be entered into the DPS SJS Data Base.

All college staff, faculty and students are asked to assist in making the college a safe place by being alert to suspicious situations or persons and reporting them as outlined below. If you witness, are the victim of, or are involved in any on-campus violation of the law such as assault, robbery, theft or overt sexual behavior, local emergency police services should be called at 911 as soon as possible and the following information should be given:

- Nature of the incident
- Location of the incident
- Description of the person(s) involved, injured
- Description of the property involved

In addition, the individual should immediately report the incident to Public Safety. Crimes or incidents of a lesser nature including, but not limited to property crimes, larceny, and vandalism, are to be immediately reported to Public Safety or appropriate FMCC faculty or staff member. If an individual notices a person(s) acting suspiciously, he or she should contact Public Safety at 518-736-3622 ext. 8405.

Incidents requiring medical attention should be reported to local emergency 911 officials. In addition, the individual should immediately report the incident to a faculty member, dean (or designee) or appropriate vice president.

Reporting of all incidents to college officials is mandatory. Person's reporting must contact a faculty member, dean (or designee) or appropriate vice president to report the incident that occurred. They in turn will contact the Public Safety 518-736-3622, ext. 8405 who will conduct an investigation, taking the initial report (if applicable).

In the event of a critical incident or violent criminal act, The Department of Public Safety officers will immediately respond in conjunction and communication with local law enforcement will, in accordance with the Jeanne Clery Act (34 CFR 668.46(e), issue a "timely warning" and/or "emergency notification" as directed by the Fulton-Montgomery Community College Emergency Notification and Timely Warning Policy.

### **C. Identification of College Campus Security Authorities**

The college has designated certain administrators and staff as "campus security authorities" in recognition that many students, faculty, and staff may be hesitant about reporting crimes to local police or Safety and Security and may be more inclined to report incidents to non-law enforcement administrators and/or staff instead.

Public Safety Authorities are individuals designated at the college to aid in the safety of the college community. Contact your campus security authority if you see unsafe conditions at a college location; if you or someone else in the college community is the victim of a crime; or if you or someone else in the college community needs a referral for drug or alcohol abuse, or for rape counseling.

Campus security authorities are charged with reporting to Public Safety officer or the appropriate law enforcement personnel, either public safety or local police, or to any official or office which should be informed of the crime or complaint due to the nature of the crime or complaint, those allegations of Clery Act crimes that the campus security authority concludes are made in good faith. A campus security authority (President, Vice President) is not responsible for determining whether a crime took place as that is the function of law enforcement and its investigatory process.

A campus security authority is required to report all allegations to law enforcement personnel, even if the campus security authority was told of a crime in the context of providing emotional support or health care support. The allegations will be reported whether or not the victim chooses to file a report with law enforcement or press charges. A campus security authority also



may provide a victim or witness with assistance in reporting a crime to Safety and Security or local police, or to any official or office which should be informed of the crime or complaint.

Generally, counselors at the college are not campus security authorities, and are therefore exempt from disclosing or reporting allegations of crimes and incidents. However, to be exempt from the Clery Act reporting requirements, the counselor must be acting in their professional role of mental health counselors at the college. For example, a dean who has Ph.D. in psychology but is acting as a dean and not a counselor would be a “campus security authority” and would not be exempt from reporting.

The college has designated the following titles as “college security authorities”:

- Public Safety, chief/director/coordinator, line supervisors and officers.
- Manager of Human Resources and labor relations, or designee
- Provost, Vice Presidents, Deans and Associate Deans
- Directors and Coordinators
- Members of Emergency Management Team
- Coordinator of college-wide disability services

#### D. Definitions of Offenses

##### 1. Criminal Offenses

Criminal offenses in the Campus Crime Reporting use the Federal Uniform Crime Reporting Part I Offenses and their related definitions. These Criminal Offenses are the following:

- **Criminal Homicide.** Includes murder and manslaughter.
  - **Murder and non-negligent manslaughter:** The willful (non-negligent) killing of one human being by another.
  - **Negligent manslaughter:** The killing of another person through gross negligence.
- **Sexual Assault.** Any sexual act directed against another person without consent of the victim, including instances where the victim is incapable of giving consent. It includes the following.
  - **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. This offense includes rape of both males and females.
  - **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 capacity.

- **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.
- **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.
- **Burglary:** The unlawful entry into a building or other structure with the intent to commit a felony or a theft.
- **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.

## 2. Hate Crimes

Under the Clery Act, a Hate Crime is a criminal offense that manifests evidence that the victim was intentionally selected because of the perpetrator's bias against the victim due to the victim's race, religion, sexual orientation, gender, gender identity, ethnicity, national origin, or disability. Although there are many possible categories of bias, under the Clery Act, only the following eight categories are reported:

- **Race.** A preformed negative attitude toward a group of persons who possess common physical characteristics, e.g., color of skin, eyes, and/or hair; facial features, etc., genetically transmitted by descent and heredity which distinguish them as a distinct division of humankind, e.g., Asians, blacks or African Americans, whites.
- **Religion.** A preformed negative opinion or attitude toward a group of persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being, e.g., Catholics, Jews, Protestants, atheists.
- **Sexual Orientation.** A preformed negative opinion or attitude toward a group of persons based on their actual or perceived sexual orientation.
- **Gender.** A preformed negative opinion or attitude toward a person or group of

persons based on their actual or perceived gender, e.g., male or female.

- **Gender Identity.** A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender identity, e.g., bias against transgender or gender non-conforming individuals.
- **Ethnicity.** A preformed negative opinion or attitude toward a group of people whose members identify with each other, through a common heritage, often consisting of a common language, common culture (often including a shared religion) and/or ideology that stresses common ancestry.
- **National Origin.** A preformed negative opinion or attitude toward a group of people based on their actual or perceived country of birth.
- **Disability.** A preformed negative opinion or attitude toward a group of persons based on their physical or mental impairments, whether such disability is temporary or permanent, congenital, or acquired by heredity, accident, injury, advanced age, or illness.

Hate crimes can include any of the Criminal Offenses (listed and defined above), and the following additional offenses (which are not independently Criminal Offenses included in the Clery statistics) if they are motivated by bias.

- **Larceny – theft:** The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another.
- **Simple assault.** An unlawful physical attack by one person upon another whether neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.
- **Intimidation.** To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.
- **Destruction/damage/vandalism of property.** To willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

Before an incident can be classified as a Hate Crime, sufficient objective facts must be present to lead a reasonable and prudent person to conclude that the offender's actions were motivated, in whole or in part, by bias.

### 3. VAWA Offenses

The following are the Violence Against Women Act (“VAWA”) Offenses:

- **Dating Violence.** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. 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.
- **Domestic Violence.** A felony or misdemeanor crime 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 family violence laws of the jurisdiction in which the crime of violence occurred; or
  - By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- **Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or suffer substantial emotional distress.
  - 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.
  - Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling

VAWA also requires the inclusion of certain New York State definitions in a campus's Annual Security Report and also requires that those definitions be provided in campaigns, orientations, programs and trainings for employees and students. Definitions required include consent, dating violence, domestic violence, sexual assault, and stalking. These definitions can be found in **Appendix B** of this report.

4. Arrests and Disciplinary Referrals for Violation of Weapons, Drug Abuse and Liquor Laws

The fourth category of crime statistics FMCC must disclose is the number of arrests and the number of persons referred for disciplinary action for the following law violations: Weapons: Carrying, Possessing, etc.; Drug Abuse Violations; and Liquor Law Violations.

- **Weapons: Carrying, Possessing, Etc.** The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices, or other deadly weapons. This classification encompasses weapons offenses that are regulatory in nature.
- **Drug Abuse Violations.** The violation of laws prohibiting the production, distribution and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation or importation of any controlled drug or narcotic substance. Arrests for violations of state and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs.
- **Liquor Law Violations.** The violation of state or local laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, or use of alcoholic beverages, not including driving under the influence and drunkenness.

#### 5. Unfounded Crimes

FMCC is required to include statistics in this annual security report for the total number of crime reports that were “unfounded” and subsequently withheld from crime statistics during each of the three most recent calendar years.

- **Unfounded Crime.** A crime is considered unfounded for Clery Act purposes only if sworn or commissioned law enforcement personnel make a formal determination that the report is false or baseless. A reported crime cannot be designated “unfounded” if no investigation was conducted or the investigation was not completed. Nor can a crime report be designated unfounded merely because the investigation failed to prove that the crime occurred; this would be an inconclusive or unsubstantiated investigation.

The number of unfounded crimes for the past three years are as follows:

- 2021: 0 unfounded crimes
- 2022: 0 unfounded crimes
- 2023: 0 unfounded crimes

#### E. Notification to FMCC College Administration

Once the incident has been effectively handled by DPS police, reporting of the incident to college officials (leadership team) is mandatory. Person reporting is instructed to forward copies of the

incident report to all college security authorities to further report the incident that has occurred. Persons reporting also should contact the Department of Public Safety to report incidents. The Department of Public Safety will conduct an investigation along with the Police agency taking the initial report. Once an incident has been reported to the leadership team the incident report will be filed through Public Safety.

#### **F. Protection and Confidentiality**

Nothing in this report will be construed to permit the college, or an officer, employee, or agent of the college, participating in any program under this title to retaliate, intimidate, threaten, coerce, or otherwise discriminate against any individual with respect to the implementation of any provision of this document. At this time, there are no provisions for confidential reporting. FMCC encourages students, faculty, and staff to report all criminal activity that has occurred at or on the FMCC campus. The report of the criminal activity may be anonymous, and the person may request confidentiality.

FMCC does not have a policy or procedure that encourages its professional counselors; if and when the counselor deems it appropriate, to inform the person being counseled of any procedures to report crime on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.

#### **G. Policy for Preparing and Reporting the Annual Disclosure of Crime Statistics**

The Department of Public Safety, in conjunction with the Office of Student Affairs, prepares this report to comply fully with the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act. Statistics are compiled in accordance with the Uniform Crime Reporting System of the Department of Justice and the Federal Bureau of Investigation.

Campus crime, arrest and referral statistics include those reported to the Department of Public Safety, and designated campus officials (including Office of Student Affairs, Office of the President, Office of Human Resources), and local law enforcement entities. Crimes are reported that occur on campus, on locations that are contiguous to the campus, and buildings or properties that are either owned or controlled by a campus affiliated entity.

College policy encourages every member of the campus community to report a crime promptly. Information is available and is provided to individuals in reference to, voluntary confidential reporting procedures in the event a person does not want to pursue action either within the federal or state criminal justice system or within the College's discipline system. A procedure is in place to capture crimes statistics which are disclosed anonymously to the Department of Public Safety or the Counseling Center.

The data for the annual crime statistics is monitored daily. The Fulton-Montgomery Community College campus has a designated campus security/ law enforcement authority. The campus security authority, upon receiving notification of a crime incident on FMCC property, will verify the circumstances and put the information into the appropriate database. These crime statistics will be published as part of the FMCC Annual Security Report. Current data also can be

disseminated upon request. The Department of Public Safety reports on an annual basis upon request the crime statistics reported to them for the previous calendar year.

FMCC will make a good-faith effort to collect crime statistics for all criminal offenses committed in all applicable geographic locations from all law enforcement agencies with jurisdiction for FMCC. Data received from local law enforcement is compared to the college's internal database to ensure accurate reporting. FMCC documents its efforts to obtain the statistics from local law enforcement agencies and documents any nonresponses.

Each year, an email notification is made to all enrolled students, faculty and staff that lists the website to access this report. Copies of the report also may be obtained at the Department of Public Safety located at 2805 State Highway 67, Johnstown, NY 12095. All prospective students may obtain a copy by calling the Department of Public Safety, the Office of Student Affairs, or by visiting the website at [www.fmcc.edu](http://www.fmcc.edu). All prospective employees may obtain a copy by calling the Department of Public Safety or by visiting the above website.

Of note, the Federal Clery Act may define a particular crime differently than that crime is defined under the New York State Penal Code. For the purposes of this report, FMCC uses the Clery Act definitions of crimes. Please see herein for the Clery Act definitions.

#### H. Daily Crime Log

In accordance with The Jeanne Clery Act, Campus Safety Act, Public Safety maintains a "daily crime log." The log contains all alleged criminal incidents, including non-Clery Act crimes, reported to the campus police or security department regardless of how much time has passed since the alleged incident occurred. Crimes are recorded in the crime log by the date they are reported.

The information contained in this log identifies incidents and or crimes reported to the Department of Public Safety, occurring on or near a college facility. The information contained in this log includes, but is not limited to, the nature of the crime reported to security or law enforcement, dates, and times the incident was reported and occurred, the general location of the incident or crime, and the disposition of the complaint if known.

The crime log is available for public viewing during normal business hours at the Department of Public Safety. The most recent 60-day period is open to public inspection, upon request, during normal business hours. Anyone may ask to see the log, whether or not they are associated with the college.

#### I. Disclosure to Victim of Crime of Violence

FMCC will, upon written request, disclose to the alleged victim of a crime of violence (as that term is defined in section 16 of title 18, United States Code), or a non-forcible sex offense, the report on the results of any disciplinary proceeding conducted by such institution against a student who is the alleged perpetrator of such crime or offense. If the alleged victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim for purposes of this paragraph.

## VII. EMERGENCY RESPONSE AND EVACUATION PROCEDURES

### A. Emergency Management Plan

This college-wide Emergency Management Plan is designed to outline a plan of action so that emergencies can be dealt with immediately in a logical and coherent manner. The intention of the Emergency Response Plan is not to establish policy, but to create a framework that will allow an immediate response to an emergency.

This plan is the result of the recognition by the college officials that there is a responsibility to manage emergency and disaster situation on campus and coordinate with all public safety and local government officials. The college recognized that a comprehensive plan is needed that is compliant with HSPD-5, including the National Incident Management Systems (NIMS). The plan also must be consistent with, and closely linked to, county and state plans.

The Emergency Management Plan designates Public Safety Officials and local police as the initial contact for reporting all emergency situations and as the central point of communication during the response and resolution of all emergencies.

Emergency Management Plan is designed to maximize human survival and preservation of property, minimize danger, restore normal operations to FMCC and assure responsive communications with the college campus community, surrounding regions and the cities in which we function within.

This plan is set in operation whenever a natural or induced emergency reaches proportions that cannot be handled by established measures.

A crisis may be sudden and unforeseen, or there may be varying periods of warning. This plan is intended to be sufficiently flexible to accommodate contingencies of all types, magnitudes, and duration.

Fulton-Montgomery Community College's Emergency Management Plan is put into effect whenever a crisis, fabricated or natural, disrupts operations, threatens life, creates major damage, or occurs within the college community and its environments.

Under the college wide Emergency Management Plan (EMP), the college practices regular emergency evacuation drills and fire safety drills.

An emergency or crisis situation can arise at Fulton-Montgomery Community College any time and from many causes. Emergencies range from chemical spills, fires and bomb threats to explosions, natural disasters, and civil disturbances such as riots or labor unrest.

The Fulton-Montgomery Community College, college wide Emergency Management Plan is a procedural document, which incorporates the Incident Command System for organizing, coordinating, and directing available resources toward the control of an emergency. The plan includes a chain of command establishing the authority and responsibility of various individuals. In emergencies, procedures sometimes must be changed at an instant's notice; therefore,



responsible, and knowledgeable persons who know the procedures have the authority to make necessary modifications.

## B. Emergency Notifications

Emergency notifications will be issued when FMCC is made aware of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on campus. An “immediate” threat includes an imminent or impending threat, such as an approaching forest fire, or a fire currently raging in one of the college’s buildings.

Some examples of significant emergencies or dangerous situations are:

- outbreak of meningitis, norovirus, coronavirus, or other serious illness.
- approaching tornado, hurricane, or other extreme weather conditions.
- earthquake.
- gas leak.
- terrorist incident.
- armed intruder.
- bomb threat.
- civil unrest or rioting.
- explosion; and
- nearby chemical or hazardous waste spill.

As appropriate, emergency notifications may be targeted at the segment or segments of the campus community that are at risk. For information that is believed to be of interest or concern to the entire college population, the threat assessment team in conjunction with the vice president for administration will typically notify the Office of the President in advance of sending a campus wide notification. The entire campus community will be notified when there is at least the potential that a very large segment of the community will be affected by a situation, or when a situation threatens the operation of the campus as a whole. There will be a continuing assessment of the situation and that additional segments of the campus community may be notified if a situation warrants such action.

The Incident Command Team, or the Director of Public Safety and/or other campus and non-campus officials as appropriate, will confirm the existence of a situation that may warrant a notification and determine if an emergency notification is warranted and the extent of the notification as appropriate.

Once FMCC has confirmed that a significant emergency or dangerous situation exists, FMCC will, without delay, (1) take into account the safety of the community, (2) determine the content of the notification, and (3) initiate the notification system, unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to or otherwise mitigate the emergency. FMCC will determine how much information is appropriate to disseminate at different points in time. Depending on what segments of the community the notification targets, the content may differ.

FMCC may notify the community about the emergency through e-mail messaging, electronic signboards, bulletins posted on building entrances and exits, fire alarms, New York State Alert, and/or the college-wide notification system.

All FMCC community members including faculty, staff and current students are encouraged to sign up for New York State Alert. The college-wide notification system will allow single source notifications to all parties affected by an emergency to receive information in a timely manner as needed. This information will be posted on the Public Safety website as the program is implemented, all faculty, staff and students email addresses will be entered into the emergency notifications system to receive emergency notifications as they may develop. Accounts have been created for current faculty, staff, and students. Once an account has been entered, the user will receive emergency notifications informing them of the nature of the emergency and instructions on what to do. Users may opt into various groups of notification at any time. Users however will not be able to opt out of emergency notifications sent by the college.

## VIII. TIMELY WARNINGS

FMCC will issue timely warnings for a specific college location or college-wide whenever a Clery Act crime is (1) reported to the Office of Public Safety, or a local police agency, and (2) considered to represent a serious or continuing threat to students and employees. FMCC communicates with local police, requesting their cooperation in informing the institution about crimes reported to them that may warrant timely warnings.

The warning will include all information that would promote safety and that would aid in the prevention of similar crimes, including pertinent information about the crime. Whenever a timely warning is sent, it will be sent to the entire affected community. The timely warning will be issued as soon as pertinent information is available and enables people to protect themselves.

The timely warning will be distributed in the following manner:

- Email to all students and/or faculty/staff affected.
- Postings in college facilities, and on campus as applicable to the incident. Postings can be emailed as attachments to various offices as indicated below.
- Utilization of the Campus Emergency Notification System
- Activation of SUNY Alert System
- Activation of FMCC electronic digital signs
- Posting of notification on FMCC Public Safety website
- NY ALERT in the case of a critical campus wide emergency
- Text messaging, if applicable
- Social media sites

## IX. BUILDING SECURITY

### A. Access to Facilities and Security of Building

Most college locations are open to the public during normal business hours. At night and during periods when classes are not in session, college buildings are generally locked. Faculty, staff, and a limited number of students, with proper identification are issued keys to gain entry into buildings. Individual's assigned keys are responsible for reporting missing, lost and/or stolen keys.

Additionally, electronic monitoring devices (CCTV) have been employed to assist with the overall general safety of the community.

## **B. Campus Facilities**

The college's goal is to provide a campus environment that is as safe and secure as possible. Generally, campus buildings and facilities are not only accessible to members of the campus community but also to the public during normal business hours 8 a.m. to 5 p.m. During nonbusiness hours, 5 p.m. to 8 a.m., classrooms and office buildings not in use will remain locked.

## **C. Security and Access to Campus Facilities Procedure Policy Statement**

Fulton-Montgomery Community College establishes procedures to ensure the safety of its students and employees.

All procedures follow these basic principles:

- Normal business hours: 8 a.m. to 9 p.m., Monday through Friday. Main entrances to facilities will be open and auxiliary entrances shall remain secured unless otherwise accommodated for. Facilities that host after-hour events or provide student instructional services may opt to have entrance times vary. The Facilities Office Director and or Other College Administrators are responsible for variances in times. Additionally, hours of operation, may vary.
- Holidays and other college closings: All facilities will be closed and secured during state recognized holidays. Alarm systems will be armed for 24 hours during these dates. Only college personnel with authorization privileges shall be permitted access to the building.
- Special considerations: Fulton-Montgomery Community College hosts various functions and has liberal leave days. During these times facilities operate on limited staffing. Main entrance areas may remain open. In buildings with key access, personnel will utilize this option for access to the facilities.

## **C. Other General Information**

### **1. Access Control -Visitors and Vendors**

The purpose of the Access Control and Security System is:

- To improve the security of facilities with an effective policy.
- To comply with campus wide crime prevention and control objectives.
- To enable Fulton-Montgomery Community College to safeguard the work facilities.
- To simplify locking policies.

- To eliminate key duplication.
- To eliminate unauthorized access.
- To eliminate the necessity of emergency re-keying and re-coring; and
- To satisfy security concerns of students, faculty, and staff.

## 2. Fulton-Montgomery Community College Student ID Number

At FMCC your social security number will not be used as your student identifier. You will be assigned a registration number for FMCC, this ID number will be used to identify your records at the college.

## 3. Physical Maintenance of Facilities

The overall maintenance of facilities at FMCC is conducted through the Office of Facilities. Physical Plant deficiencies found are to be reported to Facilities at 518-736-3622, ext. 8411. Periodic safety inspections are conducted by Public Safety in conjunction with Facilities. Overall hazards are identified and corrected. Physical security, lighting and general safety items are identified and addressed in a timely manner.

Physical deficiencies or hazards found or identified at FMCC must be reported directly to the Facilities department. The deficiencies are corrected by Facilities personnel or property owners of that respective site.

However, any emerging hazard or deficiency that is of a critical nature also should be reported to the Department of Public Safety at 518-736-3622, ext. 8405.

# X. SECURITY PROGRAMS

## A. Crime Prevention Programs

The college provides specialized trainings and crime prevention programs primarily for faculty and staff on an ongoing basis. All new arriving students and staff are given information on crime prevention during their respective orientation.

All employees are advised of building security procedures, personal safety awareness and workplace/domestic violence programs when they begin employment with the college during “new employee orientation” sessions.

Annual notification regarding specific policies and procedures can be found within this document. Specific policy information regarding “Workplace Violence and Domestic Violence” may be located at [www.fmcc.edu](http://www.fmcc.edu).

## B. Off-campus Criminal Activity

Fulton-Montgomery Community College is a non-residential college with off-campus housing. Off-campus groups or associations in a living environment associated with the college does not

currently exist. The Department of Public Safety works regularly with local law enforcement to identify crimes or incidents that occur on or near college facilities. All events conducted in conjunction with Fulton-Montgomery Community College off college property are considered college events and must follow procedures and codes of conduct in adherence with college policy.

## **XI. SEXUAL OFFENDER REGISTRY**

The Sex Offender Registration Act requires the Division of Criminal Justice Services (DCJS) to maintain a Sex Offender Registry. The registry contains information on classified sex offenders according to their risk of re-offending: low risk (level 1), moderate risk (level 2) and high risk (level 3). The act requires that the division also maintain a subdirectory of level 3 sex offenders.

The DCJS Sex Offender Registry site may be found on the Web (<https://www.criminaljustice.ny.gov/nsor/>) and contains their subdirectory of level 3 sex offenders as well as other information regarding the New York State Sex Offender Registry (referred to as “the registry”).

Sex offenders registered in New York are now required to notify the registry of any institution of higher education at which he or she is, or expects to be, whether for compensation or not, enrolled, attending, or employed, and whether such sex offender resides or expects to reside in a facility operated by the institution. Changes in status at the institution of higher education also must be reported to the registry no later than 10 days after such change.

Fulton-Montgomery Community College will maintain a website link to the New York State Sex Offender Registry and local law enforcement that maintain listings of registered sex offenders.

Correction Law §168-b requires that Division of Criminal Justice Services (DCJS) include this information regarding an institution of higher education on its registry.

## **XII. SEXUAL ASSAULT POLICY**

### **A. Introduction**

Fulton Montgomery Community College (FM) strives to maintain a respectful, safe, and nonthreatening environment for its students, faculty, staff, and visitors. The College does not tolerate sexual violence of any kind, which includes sexual harassment, sexual assault, intimate partner violence and stalking. This policy establishes procedures for responding to incidents of sexual violence and sets forth available resources for individuals reporting sexual violence and for individuals accused of or responding to allegations of sexual violence.

### **B. Student’s Bill of Rights**

Fulton Montgomery Community College is committed to providing options, support, and assistance to members of the FM community that are affected by sexual assault, sexual

harassment, intimate partner violence and stalking regardless of whether the crime or violation occurred on campus, off campus, or while studying abroad. The rights listed below are afforded to all students reporting sexual violence, as well as all students accused of sexual violence, 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, status as a domestic violence victim, or criminal conviction.

All FMCC students have the right to:

- Make a report to local law enforcement or state police.
- Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously.
- Make a decision about whether or not to disclose a crime or violation and participate in an institutional administrative or conduct process or the criminal justice process free from pressure by the institution.
- Participate in a process that is fair, impartial and that provides adequate notice and a meaningful opportunity to be heard.
- Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available.
- Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed or should have acted in a different manner to avoid such crimes or violations.
- Describe the incident to as few institutional representatives as practicable and not be required to unnecessarily repeat a description of the incident.
- Be protected from retaliation by the institution, any student, the accused/respondent, and their friends, family and acquaintances that are within the jurisdiction of the institution.
- At least one level of appeal of a determination.
- Be accompanied by an advisor of their choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process, including during all meetings and hearings related to the process; and
- The exercise of civil rights and practice of religion without interference by the investigative, criminal justice, or administrative or conduct process of the institution.

**C. Procedures for Responding to an Individual Who Has Been the Victim of Sexual Violence**

1. Ensuring the Reporting Individual’s Safety: If you or the reporting individual believe that there is an immediate threat or danger, call the Police. In emergency situations, dial 911. Below are the non-emergency numbers for many of the local police agencies:

FMCC Office of Public Safety	518-736-3622, ext. 8405	Physical Education Building, FMCC Campus
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
New York State Police 24-hour hotline	1-844-845-7269	

2. Offering Medical Treatment: Individuals who have experienced a recent sexual assault or act of physical violence are encouraged to visit a hospital or clinic to assess and address their medical needs. A medical exam can assess a victim’s injuries and provide necessary medical advice and medication. Reporting individuals should be advised that information provided during a medical exam is confidential and will not be released or shared without the reporting individual’s consent.

- ***Individuals reporting sexual assault*** should also be advised of their option to undergo a Sexual Assault Forensic Exam. These exams are performed by skilled clinicians at local hospitals. The exam includes assessment for and treatment of injury, addressing concerns of pregnancy and sexually transmitted infections (STI’s), and collection of evidence. Individuals reporting sexual assault should be advised as follows:
  - That choosing to undergo a Sexual Assault Forensic Exam does not require that the victim report the violence to police or College administration. However, the exam is strongly recommended as it will greatly enhance the likelihood of a successful prosecution of the assailant in criminal cases should the victim choose to report the incident now or in the future.
  - That it is important not to bathe, wash, change clothes, or brush one’s teeth prior to seeking medical attention. If possible, it is also best that the victim does not take fluids or use the bathroom prior to the exam.
  - That for the purposes of evidence collection, the Sexual Assault Forensic Exam should be conducted within 96 hours of the assault. However, even if 96 hours have elapsed, the exam is still recommended. That the Sexual Assault Forensic Exam is free and does not have to be charged to the victim’s insurance.
  - That information provided during the Sexual Assault Forensic Exam is confidential, and will not be released or shared with anyone, including Police and the College, without the victim’s consent.
  - 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: [www.ovs.ny.gov/files/ovs\\_rights\\_of\\_cv\\_booklet.pdf](http://www.ovs.ny.gov/files/ovs_rights_of_cv_booklet.pdf) or by calling 1-800-247-8035. Options are explained here: [www.ovs.ny.gov/helpforcrimevictims.html](http://www.ovs.ny.gov/helpforcrimevictims.html)

- If an individual reporting sexual violence chooses to obtain medical care, assistance should be provided in arranging for transportation to the hospital or clinic chosen by the reporting individual. This assistance can be provided by the FM Office of Public Safety, Residential Life Staff, or the Title IX Coordinator. Reporting individuals should be further informed that they can request that an advocate accompany them to the hospital. Off-campus advocates are available to the entire campus community through Campus Sexual Assault Victim Services, Planned Parenthood Mohawk Hudson, 400 North Perry St, Johnstown, NY 12095, 518-736-1911.

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
Campus Sexual Assault Victim Services Planned Parenthood Mohawk Hudson	518-736-1911 1-866-307-4086 24-hr. hotline	400 North Perry St. Johnstown, NY 12095

3. Provide information: At the first instance of disclosure by a reporting individual to ANY College employee, the following information shall be presented to the reporting individual:

“You have the right to make a report to FM Public Safety, local law enforcement, and/or State Police or choose not to report; to report the incident to Fulton Montgomery Community College; to be protected by FM from retaliation for reporting an incident; and to receive assistance and resources from the College”

Students that have reported sexual violence should then be directed to the Title IX Coordinator and this policy for further guidance and information. All other members of the College community should be directed to this policy for further guidance and information.

#### D. Resources for Victim/Survivors of Sexual Violence

Persons who experience unwelcome sexual behavior may respond to the experience in many ways, including feeling confused, overwhelmed, and vulnerable, out of control, embarrassed, angry, distrustful, or depressed. FM provides a variety of resources for support and advocacy to assist individuals who have experienced sexual violence. The College will also provide reporting individuals with information about how to report the violence, should they choose to do so. Reporting individuals have the right to emergency access to one of the following college representatives:

- Title IX Coordinator: 518-736-3622 ext. 8100
- FMCC Public Safety 518-736-3622 ext. 8405

The above representatives are trained in interviewing victims of sexual assault and will be available upon the first instance of disclosure by a reporting individual to provide written information regarding options to proceed, and, where applicable, the importance of preserving evidence and



obtaining a sexual assault forensic exam or other medical examination as soon as possible. These representatives can also provide information about an administrative investigation by the College and the criminal justice process and will inform the individual about the different standards of proof utilized by each process. The above representatives will refer a reporting individual to law enforcement if there are questions about whether a specific incident violated the law. Each representative will inform the reporting individual whether he or she is authorized to offer the reporting individual confidentiality or privacy.

#### The Employee Assistance Program (Employees Only)

The Employee Assistance Program provides faculty and staff with free, confidential assistance from a qualified professional who can listen, be supportive, and who can recommend additional services. The Employee Assistance Coordinator can be reached at 518-843-0503 or 1-800-477-4143. The office is located at St. Mary's Healthcare, 430 Guy Park Ave, Amsterdam, NY 12010.

Additional effective intervention services can be accessed at St. Mary's Hospital, Counseling and Psychological Services, and Montgomery County Crime Victim's and Sexual Violence Center:

[vasap@montgomerycountymd.gov](mailto:vasap@montgomerycountymd.gov)

240-777-1355

24-hour crisis line 240-777-4357

St Mary's Hospital Mental Health Clinic

518-773-3531

St. Mary's Hospital Crisis Line

518-842-9111

#### **E. Protection and Accommodations**

Individuals reporting sexual violence and individuals accused of or responding to allegations of sexual violence are afforded the following protections and accommodations:

- When the accused is a student, to have the institution issue a "No Contact Order." When a No Contact order is in effect, continued contact with the protected individual is a violation of Community Rights and Responsibilities and will result in additional conduct charges. If the accused and a protected person observe each other in a public place, it is the responsibility of the accused to leave the area immediately and without directly contacting the protected person. Both the accused/respondent and reporting individual may request a prompt review of the need for and terms of a No Contact Order, consistent with FM Student Code of Conduct. Parties may submit evidence in support of their request.
- To have assistance from 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.

- 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 accused's responsibility to stay away from the protected person(s); that burden does not rest on the protected person(s).
- To an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension.
- To have assistance from FM Public 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 FM Public Safety or, if outside of the jurisdiction to call on and assist local law enforcement in effecting an arrest for violating such an order.
- When the accused is a student and presents a continuing threat to the health and safety of the community, to have the accused subject to interim suspension pending the outcome of a conduct process. Parties may request a prompt review of the need for and terms of an interim suspension in accordance with the procedures set forth in FM Student Code of Conduct.
- When the accused is not a student but is a member of the College community and presents a continuing threat to the health and safety of the community, to subject the accused to interim measures in accordance with applicable collective bargaining agreements, employee handbooks, and Fulton Montgomery Community College policies and rules.
- When the accused is not a member of the College community, to have assistance from FM Public Safety or other college officials in obtaining a persona non grata letter, subject to legal requirements and college policy.
- To receive assistance from appropriate FM representatives/community partners in initiating legal proceedings in family court or civil court.
- To obtain reasonable and available interim measures and accommodations that effect a change in academic, housing, employment, transportation, or other applicable arrangements in order to ensure safety, prevent retaliation, and avoid an ongoing hostile environment. Parties may request a prompt review of the need for and terms of any interim measures and accommodations that directly affect them.

Students who have experienced sexual violence may request accommodations through any of the offices referenced in this section of this policy. All other members of the College community, including those accused of or responding to allegations of sexual violence, may request reasonable accommodations through the Title IX Coordinator.

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

FM wants individuals who have experienced sexual violence to get the information and support that they need regardless of whether they would like to move forward with a report of sexual violence to campus officials or to police. A person may want to talk with someone about something they have observed or experienced, even if they are not sure that the behavior constitutes sexual violence. A conversation where questions can be answered is far superior to keeping something to oneself. Confidentiality varies, and this section of the policy is aimed at helping our community understand how confidentiality applies to the different resources that may be available.

### 1. Privileged and Confidential Resources on Campus

Reporting individuals have the right to confidentially disclose an incident to college officials who are designated as confidential resources. These individuals can assist in obtaining services for reporting individuals. Individuals who are *confidential* resources will not report crimes to law enforcement or college officials without permission, except for extreme circumstances, such as a health and/or safety emergency.

#### 2. Confidential Resources for Students:

- Counselor for Mental Health Services, Student Development Center N-107, 518-736-3622 ext. 8148
- Anonymous On-line Reporting Form: [www.fmcc.edu](http://www.fmcc.edu).

#### 3. Confidential Resources for Employees:

- Employee Assistance Program  
St. Mary's Healthcare  
430 Guy Park Ave, Amsterdam, NY 12010  
518-843-0503  
1-800-477-4143
- Anonymous On-line Reporting Form: [www.fmcc.edu](http://www.fmcc.edu).

### Off Campus Options to Disclose Sexual Violence Confidentially

Reporting Individuals may also confidentially disclose the incident and obtain services from the following resources and hotlines. Please note that the 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.

- Victim Advocacy Services  
VAS Fulton, Montgomery, Hamilton Counties  
1-866-307-4086
- In Our Own Voices,  
[www.inourownvoices.org](http://www.inourownvoices.org)  
518-432-4188
- Pandora's Project

[www.pandys.org/lgbtsurvivors.html](http://www.pandys.org/lgbtsurvivors.html)

### Off-Campus Healthcare Providers

Reporting Individuals may also confidentially disclose the incident and obtain services from off-campus medical providers. Some of the area providers are listed below. It is important for Reporting Individuals to be aware 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: [http://www.ovs.ny.gov/files/ovs\\_rights\\_of\\_cv\\_booklet.pdf](http://www.ovs.ny.gov/files/ovs_rights_of_cv_booklet.pdf) or by calling 1-800-247-8035. Options are explained here: <http://www.ovs.ny.gov/helpforcrimevictims.html>
- Note that even individuals who can typically maintain confidentiality are subject to exceptions under the law, including when an individual is a threat to him or herself or others and the mandatory reporting of child abuse.
- St Mary's Healthcare  
518-842-1900  
427 Guy Park Ave, Amsterdam, NY
- Nathan Littauer Hospital  
518-725-8621  
99 E State St, Gloversville, NY

### Requesting Confidentiality: How the College Will Weigh the Request and Respond:

If a reporting individual discloses an incident to an FM employee who is responsible for responding to or reporting sexual violence or sexual harassment, but the reporting individual wishes to maintain confidentiality or does not consent to the institution's request to initiate an investigation, the Title IX Coordinator must weigh their request against the College's obligation to provide a safe, nondiscriminatory environment for all members of our community, including the reporting individual.

The College will assist the reporting individual with academic, housing, transportation, employment, and other reasonable and available accommodations regardless of their reporting choices. While reporting individuals may request accommodations through several college offices, the following College officials can serve as a primary point of contact to assist with these measures:

- The Title IX Coordinator  
518-736-3622 ext. 8100  
Student Welcome Center Office of the Dean for Student Affairs  
A111
- Sexual Assault Services  
518-736-1911

Planned Parenthood Mohawk Hudson  
400 North Perry St.  
Johnstown, NY 12095

The College may also take proactive steps, such as training or awareness efforts, to combat sexual violence in a general way that does not identify the reporting individual or the situation they disclosed.

The College may seek consent from a reporting individual prior to conducting an investigation. He or she may decline to consent to an investigation, and that determination will be honored unless the College's failure to act does not adequately mitigate the risk of harm to the reporting individual or other members of the College community. Honoring the reporting individual's request may limit the College's ability to meaningfully investigate and pursue conduct action against an accused individual. If Fulton Montgomery County Community College determines that an investigation is required, the reporting individual will be notified, and immediate action will be taken as necessary to protect and assist the reporting individual.

When an individual discloses an incident to someone who is responsible for responding to or reporting sexual violence or sexual harassment, but wishes to maintain confidentiality, the College will consider many factors to determine whether to proceed despite that request. These factors include, but are not limited to:

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

If the College determines that it must move forward with an investigation, the reporting individual will be notified, and the College will take immediate action as necessary to protect and assist them. Please note that honoring a reporting individual's request that FM refrain from conducting an investigation may limit the College's ability to meaningfully investigate and pursue conduct action against an accused individual.

#### Privacy versus Confidentiality:

Even FM offices and employees who cannot guarantee confidentiality will maintain your privacy to the greatest extent possible. The information provided by a reporting individual to a non-confidential resource will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible under the law for tracking patterns and spotting systemic issues. The

College will limit the disclosure as much as possible, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored.

#### Public Awareness/Advocacy Events:

If a situation is disclosed through a public awareness event such as “Take Back the Night,” candlelight vigils, protests, or other public event, the College is not obligated to begin an investigation. The College may use the information provided to inform the need for additional education and prevention efforts.

### **G. How to Report Sexual Violence**

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

#### Reporting to the College

Reporting individuals have the right to report an incident of sexual violence to one of the following FM officials who can offer privacy and can provide information about remedies, accommodations, evidence preservation, and how to obtain resources. When a student or employee reports to FMCC that the student or employee has been a victim of dating violence, domestic violence, sexual assault, or stalking, whether the offense occurred on or off campus, FMCC will provide the student or employee a written explanation of the student’s or employee’s rights and options.

Please note that an official who can offer privacy may still be required by law<sup>1</sup> and college policy to inform one or more College officials about the incident, including but not limited to the Title IX Coordinator. These officials will:

- Provide the Reporting Individual with a copy of the Students’ Bill of Rights
- Disclose that they are private and not confidential resources, and that they may be required by law and College policy to inform one or more College officials about the incident, including but not limited to the Title IX Coordinator.
- Notify reporting individuals that the criminal justice process uses different standards of proof and evidence than institutional administrative procedures, and questions about the penal law or the criminal process should be directed to law enforcement or the District Attorney.

#### Title IX Coordinator:

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<sup>1</sup> The United States Department of Education Office of Civil Rights guidance states that Title IX of the Education Amendments of 1972 requires an institution’s “responsible employees” to report all known incidents of sexual violence to the institutions Title IX Coordinator. This guidance defines “responsible employee” as an any employee who has the authority to take action to redress sexual violence; who has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX coordinator or other appropriate school designee; or whom a student could reasonably believe has this authority or duty.

The Title IX Coordinator is available to receive reports and to provide information and assistance regarding an incident of sexual assault, domestic violence, dating violence, and/or stalking. Reports will be investigated in accordance with FM policy and a reporting individual's identity shall remain private at all times if they wish 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.

#### Human Resources:

When the accused is an employee, a reporting individual may also report the incident to the FM Office of Human Resources or may request that one of the above referenced confidential or private employees assist in reporting to Employee Relations or Human Resources. Disciplinary proceedings will be conducted in accordance with applicable collective bargaining agreements.

Any disciplinary proceedings related to sexual violence will be conducted by officials who, at a minimum, receive annual training on the issues related to dating violence, domestic violence, sexual assault, and stalking, and how to conduct an investigation and hearing process that protects the safety of the victims and promotes accountability. During the disciplinary proceeding, the accuser and the accused will be provided with the same opportunities to have others present, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice. The legal standard of evidence that applies in such disciplinary proceedings is a preponderance of the evidence.

Following the disciplinary proceeding, the accuser and accused must be simultaneously notified in writing of (1) the result of the disciplinary proceeding that arises from an allegation of sexual violence, (2) FMCC's procedures to appeal the result of the disciplinary proceeding; (3) any change to the result, and (4) when such results become final.

When the accused is an employee of an affiliated entity or vendor of the College, College officials will, at the request of the reporting party, assist in reporting to the appropriate office of the vendor or affiliated entity and, if the response of the vendor or affiliated entity is not sufficient, assist in obtaining a persona non grata letter, subject to legal requirements and college policy.

- Human Resources  
518-736-3622 ext. 8403  
Administrative Services Building

#### Reporting to the Police

Reporting Individuals have the right to file a criminal complaint with the FM Office of Public Safety or with local law enforcement:

FM Office of Public Safety	518-736-3622 ext. 8405	Physical Education Building, FM Campus
City of Amsterdam Police	518-842-1100	40 Guy Park Avenue Amsterdam, NY
City of Gloversville Police	518-773-4542	3 N. Main Street Gloversville, NY
City of Johnstown Police	518-736-4021	244 N. Perry Street Johnstown, NY
New York State Police 24-hour hotline	1-844-845-7269	

### Anonymous Reporting

Options for anonymously reporting incidents of sexual violence are available here:

- NYS Police 24-hour hotline: 1-844-845-7269
- Anonymous On-line Reporting Form: [www.fmcc.edu](http://www.fmcc.edu).

### Withdrawal of Complaints/Involvement

A reporting individual has the right to withdraw their complaint from the College process at any time.

## H. Resources and Support for Students Who Are Accused of Sexual Violence

The following support resources are available to students who have been accused of sexual violence:

- Students who are accused of sexual violence may discuss their situations privately with licensed clinicians at Counseling and Psychological Services in the Student Development Center. An accused student's conversations with college counselors and staff will not be reported to anyone else in the College except in cases of a threat of imminent physical harm. However, statements made to certain employees in these offices may not be legally confidential. When seeking private advice and support from these offices or from any College employee, students should always confirm whether legal confidentiality applies to their communications with the person to whom they are speaking.
- Students who are accused of sexual violence may request reasonable and available interim measures and accommodations that effect a change in academic, housing, employment, transportation, or other applicable arrangements in order to prevent retaliation and avoid an ongoing hostile environment. Accused students may request accommodations through the Title IX Coordinator, who can serve as a point to assist with these measures.
- Students who are accused of sexual violence have the right to due process. The College will treat accused students with fairness and respect and will ensure that its investigations and disciplinary proceedings are conducted in accordance with principles of due process.
- Any disciplinary proceedings related to sexual violence will be conducted by officials who, at a minimum, receive annual training on the issues related to dating violence,



domestic violence, sexual assault, and stalking, and how to conduct an investigation and hearing process that protects the safety of the victims and promotes accountability. The legal standard of evidence that applies in such disciplinary proceedings is a preponderance of the evidence.

- A student who is accused of sexual violence may be assisted during the disciplinary hearings and related meetings by an advisor of their choice. An advisor is any individual who provides the accused support, guidance, or advice. Advisors may not address the student conduct hearing board panelists during a disciplinary hearing but may speak privately with the advisee during the proceedings.
- Following any investigation involving an allegation of sexual violence, the accuser and accused must be simultaneously notified in writing of (1) the result of the disciplinary proceeding that arises from an allegation of sexual violence, (2) FMCC's procedures to appeal the result of the disciplinary proceeding; (3) any change to the result, and (4) when such results become final.

## I. Investigation Procedures

The College is committed to conducting adequate, reliable, and impartial investigations of reports and complaints of sexual violence, and to doing so in a timely manner. The Title IX Coordinator is responsible for overseeing and coordinating many aspects of this response. All College employees, other than the confidential resources discussed above, are required to promptly and fully report all information about alleged or suspected sexual violence to the Title IX Coordinator. When the Title IX Coordinator receives a report alleging actual or suspected sexual violence, he or she will do the following:

- Review all available information to determine whether or not immediate remedial action can and should be taken.
- In conjunction with the office of FM Public Safety, determine whether a timely warning should be issued to the entire College community in accordance with Clery Act requirements. Should the College determine that a timely warning is necessary, the College will make every effort to notify the reporting individual prior to the issuance of the notification.
- Conduct a preliminary inquiry into the report or assign a team of investigators to do so.

### Purpose of the Investigation

The College will conduct an investigation into allegations of sexual violence that occur within the FM community or that have an effect on the FM community. The purpose of an investigation is:

- When the Respondent is a student or an employee, to collect and compile evidence for the purpose of determining whether the complaint, if accepted as true, alleges a violation of FM policy and if so, which specific policies may have been violated.
- When the Respondent is a student or employee, to determine whether the allegations warrant review by the Office of Community Standards or Human Resources, if such review has not yet been initiated.
- When the Respondent is not a member of the College community, to collect and compile evidence relevant to the allegations in order to determine whether a violation

- of college policy has occurred. This determination will be made by the Title IX Coordinator, or a designee(s).
- To assist FM in its obligation to stop individual instances of sexual violence, to prevent the recurrence of the violence, and to remedy any effects the violence has had on the entire College community.

### Preliminary Inquiry

Upon receipt of a report alleging sexual violence, the Title IX Coordinator or a designee will assess whether a formal Title IX investigation will be conducted under this policy; that is, whether the allegations in the initial report(s), if true, would constitute prohibited sexual violence in accordance with Fulton Montgomery Community College policy. This preliminary review, including any necessary interviews to be conducted and any necessary interim measures to be put in place, will usually be completed within seven (7) days of receipt of the complaint.

### Investigation Process when the Accused is a Student

If the Title IX Coordinator determines that an investigation is necessary, the following will occur, in no particular order:

- The Dean for Student Affairs/Title IX Coordinator and the Public Safety Office will assign a team of investigators to conduct the investigation.
- The Title IX Investigation team will notify all parties to the complaint, if their identities are known, that the College will be conducting an investigation.
- The Title IX Investigation team will contact the alleged victim/survivor in order to:
  - Advise the victim/survivor of resources available both on and off campus for support, advocacy, and accommodations for safety and security.
  - Advise the victim/survivor of their reporting rights and options; including the right to request that the College not take action.
  - Advise the victim/survivor about the investigation process.
  - Advise the victim/survivor about the College's prohibition against retaliation.
  - Conduct an interview of the victim/survivor, should they choose to participate; and
  - Allow the victim/survivor to provide evidence, including, but not limited to documents, recordings, and names of potential witnesses.
- The Title IX Investigation team will meet with the Respondent(s) in order to:
  - Advise the respondent(s) of resources available both on and off campus for support, advocacy, and accommodations.
  - Advise the respondent about the investigation process.
  - Advise the respondent about FMCC's prohibition against retaliation.
  - Conduct an interview of the respondent, should they choose to participate; and
  - Allow the respondent to provide evidence, including, but not limited to documents, recordings, and names of potential witnesses.
- The Title IX Investigation team will attempt to meet with and speak to all witnesses who have or may have information relevant to the investigation.
- The Title IX Investigation team will attempt to collect all evidence relevant to the investigation.

- When it appears that the investigation may result in a student conduct referral, the Title IX Investigation team will prepare a draft investigation report. Once that draft is prepared the following will occur:
  - 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,
    - that they are satisfied that they have shared all relevant information known to them, and
    - that the report is an accurate representation of their conversations with the investigators.
  - Next, the victim/survivor 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.
  - If one party has additional questions, or if additional evidence is offered, the investigators 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, will then be repeated until all parties are satisfied that investigation is thorough and complete.
- Once the victim/survivor and the respondent(s) are satisfied that the investigation report is accurate as to their statements and complete in that it contains all relevant information, a final investigation report will be prepared and distributed to the parties. The parties will then be required to affirm, in writing, that: (1) they have had the opportunity to review the report in its entirety, (2) the portion of the report in which their statements are summarized is accurate and complete, (3) they are satisfied that they have shared all relevant information and evidence known to them, and (4) they are satisfied that the investigation was thorough and complete.
- If the investigation identifies evidence that, if true, could constitute a violation of *the Student Code of Conduct*, the Vice President of Student Affairs will make a referral to the Hearing Committee and the investigation report will be provided to them for further action.
- Absent extenuating circumstances, investigation and resolution is expected to take place within sixty (60) calendar days from receipt of the complaint. All deadlines and time requirements detailed below may be extended for good cause as determined by the Title IX Coordinator or the Vice President for Student Affairs, or a designee of either of those individuals. Both the respondent and the complainant will be notified in writing of the delay, the reason for delay, and provided the date of the new deadline or event. Extensions requested by one party will not be longer than five business/school days.

#### Investigation Process when the Accused is an Employee

When the accused is an employee, the investigation will be conducted by the Office of Human Resources and the Title IX Coordinator or designee in accordance with applicable collective bargaining agreements. When the accused 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, assist in obtaining a persona non grata letter, subject to legal requirements and institutional policy.

## J. Adjudication of Sexual Violence Complaints

### Student Conduct Process:

When the alleged perpetrator of an act of sexual violence is a student, the reporting individual has the right to request that student conduct charges be filed against the accused. Conduct proceedings are governed by the procedures set forth in the Fulton Montgomery Community College student code of conduct, as well as federal<sup>8</sup> and New York State Law<sup>9</sup>, including the due process provisions of the United States and New York State Constitutions. The FM Student Code of Conduct can be accessed at [www.fmcc.edu](http://www.fmcc.edu).

### Employee Complaint Adjudications:

When the accused is an employee, disciplinary proceedings will be conducted in accordance with applicable collective bargaining agreements. When the accused 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, assist in obtaining a persona non grata letter, subject to legal requirements and college policy.

## K. Prohibition Against Retaliation

Retaliation is an intentional act taken against an individual who initiates or participates in any sexual violence or misconduct investigation or proceeding. Any act of retaliation, either directly or through a third party, against a person who files a sexual violence complaint, serves as a witness, or assists or participates in any manner in any investigation or conduct proceeding involving allegations of sexual violence is strictly prohibited and will result in a disciplinary action. Reports of retaliation can be made to the following College Officials:

Title IX Coordinator	518-736-3622 x 8100	A-III Student Welcome Center
FMCC Office of Public Safety	518-736-3622 x 8405	P-144 Physical Education Building
Human Resources	518-736-3622 x 8403	Administrative Services Building

## L. Student Onboarding and Ongoing Education

Fulton Montgomery Community College believes that sexual violence prevention training and education cannot be accomplished via a single day or a single method of training. To that end, the FM, in accordance with SUNY-wide policy and state and federal law, 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 sexual violence and maintains a culture where sexual assault and acts of sexual violence are not tolerated.

During the course of their onboarding to the College, which will not be limited to a single day during orientation, all new first-year and transfer students will receive training on the following topics:

- The institution prohibits sexual harassment, including sexual violence, domestic violence, dating violence, stalking, other violence, or threats of violence, and will offer resources to any victims/survivors of such violence while taking administrative and conduct action regarding any accused individual within the jurisdiction of the institution.
- Relevant definitions including, but not limited to, the definitions of sexual violence, dating violence, domestic violence, sexual assault, stalking, and consent.
- Policies apply equally to all students regardless of sexual orientation, gender identity, or gender expression.
- The role of the Title IX Coordinator, Campus Security, and other relevant offices that address violence prevention and response.
- Awareness of violence, its impact on victims/survivors and their friends and family, and its long-term effects.
- The Students' Bill of Rights and Sexual Violence Response Policy, including:
  - How to report sexual violence and other crimes confidentially, and/or to college officials, campus law enforcement and security, and local law enforcement.
  - How to obtain services and support.
- Bystander intervention and the importance of taking action, when one can safely do so, to prevent violence.
- The protections of the Policy for Alcohol and/or Drug Use Amnesty in Sexual and Interpersonal Violence Cases.
- Risk assessment and reduction including, but not limited to, steps that potential victims/survivors and potential assailants and bystanders to violence can take to lower the incidence of sexual violence.
- Consequences and sanctions for individuals who commit these violations.

The onboarding process is not limited to a single day of orientation. FMCC will conduct these trainings for all new students, whether first-year or transfer. The College will use multiple methods to educate students about sexual violence prevention.

Students at FM shall be offered general and specialized training in sexual violence prevention. The College will conduct a campaign, compliant with the requirements of the Violence Against Women Act, to educate the student population. Further, the College will, as appropriate,

provide or expand specific training to include groups such as international students, students that are also employees of the campus, leaders, and officers of registered/recognized student organizations, online and distance education students. The institution will also provide specific training to members of groups identified as likely to engage in high-risk behavior.

In accordance with New York State Education Law section 129-b, the College will require that student leaders and officers of registered/recognized student organizations and those seeking recognition complete training on domestic violence, dating violence, sexual assault, or stalking prevention as part of the approval process and require student-athletes to complete training in domestic violence, dating violence, sexual assault, or stalking prior to participating in intercollegiate athletics.

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 awareness 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 businesses that attract students to advertise and educate about these policies.

The College will engage in a regular assessment of sexual violence education and prevention programming and policies to determine effectiveness.

### **M. Institutional Crime Reporting**

Reports of certain crimes occurring in certain geographic locations will be included in the Fulton Montgomery Community College 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.

The College 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.

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

## N. Scope of this Policy

This policy applies to all members of the FM community and its guests, without regard to an individual's race, color, national origin, religion, creed, age, disability, sex, gender identity, gender expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction. Employees, students, applicants, or other members of the FM community (including but not limited to vendors, visitors, and guests) may not be subjected to harassment that is prohibited by law or treated adversely or retaliated against based upon a protected characteristic. This policy applies both on-campus and off-campus, as described below.

### On-campus violations

This policy forbids acts of sexual violence anywhere on campus. "Campus" includes College-owned or leased property, streets, and pathways contiguous to college property, or in the immediate vicinity of campus. It also includes the property, facilities, and leased premises of organizations affiliated with the College.

### Off-campus violations

Off-campus violations, including online behavior, which affect a clear and distinct interest of the College are subject to disciplinary sanctions. For example, sexual violence by a student is within the College's interests when the behavior:

- Involves conduct directed at an FM student or other member of the College community.
- Occurs during FM sponsored events (e.g., field trips, social or educational functions, College-related travel, student recruitment activities, internships, and service-learning experiences).
- Occurs during the events of organizations affiliated with the College, including the events of student organizations.
- Occurs during a Study Abroad program or other international travel; or
- Poses a disruption or threat to the College community
- The effects of the violence are such that they create a hostile environment within the College community.

## O. Definitions

### Terms used throughout this policy

- Accused individual: A person accused of a violation who has not yet entered a judicial or institutional administrative conduct or review process.
- Affirmative consent: A knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.
- Reporting Individual: Encompasses the terms victim, survivor, complainant, claimant, witness with victim status, and any other term used by an institution to reference an individual who brings forth a report of a violation.
- Responding Individual: A person accused of a violation who has entered an institutional administrative review process or administrative student conduct process
- Sexual assault: Any physical sexual act committed without consent.
- Sex discrimination: Includes all forms of sexual misconduct by employees, students, or third parties against employees, students, or third parties. Students, College employees, and third parties are prohibited from harassing other students and/or employees whether or not the incidents of harassment occur on the College campus and whether or not the incidents occur during working hours.
- Sexual violence: The term sexual violence as used throughout this policy includes sexual harassment, sexual assault, and domestic violence, dating violence, intimate partner violence and stalking.
- Sexual harassment: Unwelcome, gender-based verbal or physical conduct that is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, denies, or limits someone's ability to participate in or benefit from the college's educational program and/or activities, and is based on power differentials (*quid pro quo*), the creation of a hostile environment, or retaliation.

### Federal and State Laws referred to throughout this policy

- Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act: This federal law, passed in 1990, the "Clery Act" requires all colleges and universities who receive federal funding to share information about crime on campus and their efforts to improve campus safety through the publishing of an annual security report. Additionally, the act requires institutions to provide survivors of sexual violence with reasonable accommodations and assistance in reporting and it requires institutions to outline specific policies and procedures for the prevention of sexual violence in their annual security reports.
- New York State Education Law Article 129-B: New York State Education Law Article 129-B, also known as "Enough is Enough", requires all colleges in the State of New York to adopt a comprehensive set of policies and guidelines, including a uniform definition of affirmative consent, a statewide amnesty policy, and expanded access to law enforcement.



- Title IX of the Education Amendments of 1972: Title IX of the Education Amendments of 1972 is a comprehensive federal law that protects people from discrimination based on sex in education programs or activities which receive Federal financial assistance. The law prohibits discrimination on the basis of sex in any federally funded education program or activity. Colleges must promptly respond to known instances of gender discrimination, which includes sexual harassment and sexual violence, in a way that limits its effects and prevents its recurrence.
- Violence Against Women Act ("VAWA") Reauthorization Act of 2013: This federal law requires colleges and universities to: (1) report dating violence, domestic violence, sexual assault, and stalking, beyond crime categories the Clery Act already mandates; (2) adopt certain student discipline procedures, such as for notifying purported victims of their rights; and (3) adopt certain institutional policies to address and prevent campus sexual violence through the education and training of an institution's community.

### Prohibited Conduct: FM Student Code of Conduct

The following conduct is prohibited by Fulton Montgomery Community College's Student Code of Conduct and is applicable to students:

- Intimate Partner Violence: Intimate Partner Violence includes Dating Violence and Domestic Violence, both of which are further defined below. Intimate Partner Violence can occur in relationships of the same or different genders.
- Dating Violence – Any act of violence, including physical, sexual, psychological, and verbal violence, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. Dating Violence can occur as a single act, or it can consist of a pattern of violent, abusive, or coercive acts that serve to exercise power and control in the context of a romantic or intimate relationship. The existence of such a relationship shall be determined based on the victim's statement and with consideration of the type and length of the relationship and the frequency of the interaction between the persons involved in the relationship. Two people may be in a romantic or intimate relationship, regardless of whether the relationship is sexual in nature; however, neither a casual acquaintance nor ordinary fraternization between two individuals in a business or social context shall constitute a romantic or intimate relationship.
- Domestic Violence – Any violent felony, non-violent felony, or misdemeanor crime, as those terms are defined by the laws of the State of New York and of the federal government committed by a current or former spouse or intimate partner of the victim, a person sharing a child with the victim, or a person cohabitating with the victim as a spouse or intimate partner.
- Retaliation: Engaging, directly or indirectly, in any action or attempting to harass, intimidate, retaliate against, or improperly influence any individual involved with the Student Conduct System. An intentional act taken against an individual who initiates any sexual misconduct complaint, including stalking of intimate partner violence, pursues legal recourse for such a complaint, or participants in any manner in the investigation of such a report. Any act of retaliation is prohibited and is subject to a student conduct referral.

- Sexual Assault I: Sexual intercourse or any sexual penetration, however slight, of another person's oral, anal, or genital opening with any object (an object includes but is not limited to parts of a person's body) without the active consent of the victim.
- Sexual Assault II: Touching a person's intimate parts (defined as genitalia, groin, breast, or buttocks), whether directly or through clothing, without the active consent of the victim. Sexual Assault II also includes forcing an unwilling person to touch another's intimate parts.
- Sexual Exploitation: Non-consensual, abusive sexual behavior that does not otherwise constitute Sexual Assault I, Sexual Assault II or Sexual Harassment. Examples include but are not limited to: intentional, nonconsensual tampering with or removal of condoms or other methods of birth control and STI prevention prior to or during sexual contact in a manner that significantly increases the likelihood of STI contraction and/or pregnancy by the non-consenting party; nonconsensual video or audio taping of sexual activity; allowing others to watch consensual or nonconsensual sexual activity without the consent of a sexual partner; observing others engaged in dressing/undressing or in sexual acts without their knowledge or consent; trafficking people to be sold for sex; and inducing incapacitation with the intent to sexually assault another person.
- Sexual Harassment: Unwelcome verbal or physical conduct of a sexual nature that is sufficiently severe or pervasive to effectively alter or deny the individual reasonable access to college resources or that such conduct creates an intimidating, hostile or sexually offensive environment for learning, working, or living on campus.
- Stalking: Intentionally engaging in a course of conduct, directed at a specific person, which is likely to cause a reasonable person to fear for his or her safety or the safety of others or cause that person to suffer substantial emotional damage. Examples include, but are not limited to, repeatedly following such person(s), repeatedly committing acts that alarm, cause fear, or seriously annoy such other person(s) and that serve no legitimate purpose, and repeatedly communicating by any means, including electronic means, with such person(s) in a manner likely to intimate, annoy or alarm him or her. Stalking does not require direct contact between parties and can be accomplished in many ways, including through the use of electronic media such as internet, pagers, cell phones, or other similar devices.

#### Prohibited Conduct: Criminal Offenses in the State of New York

The New York State Penal Law defines criminal conduct in the state of New York. Definitions of criminal offenses can be accessed here: <http://ypdcrime.com/penal.law/>.

The Penal Law is applicable to all members and guests of the FM community within the State of New York. For questions or information or questions regarding conduct prohibited by New York State and Federal Law, please contact the FM office of Public Safety.

#### Further principles relating to provisions required under Article 129-B--Consent Principles.

Fulton Montgomery Community College further recognizes the following principles related to consent to sexual activity.

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

### XIII. BIAS RELATED CRIME AND HATE CRIME

Fulton-Montgomery Community College takes bias crimes seriously. The college provides the following information to students and employees to assist in the prevention of and response to bias crimes.

Hate crimes, also called bias crimes or bias-related crimes, are criminal activities motivated by the perpetrator's bias or attitude against an individual victim or group based on perceived or actual personal characteristics, such as race religion, ethnicity, gender identity, sexual orientation, national origin, or disability. Penalties for bias-related crimes are very serious and range from fines to imprisonment for lengthy periods, depending on the nature of the underlying criminal offense, the use of violence or previous convictions of the offender.

If you are the victim of, or witness to, a hate/bias crime at a college location or event, report it to the Department of Public Safety or an appropriate local police agency.

Bias incidents directed at a member of a group within Fulton-Montgomery Community College that does not rise to the level of a crime include bigotry, harassment or intimidation based on national origin, ethnicity, race, age, religion, gender identity, sexual orientation, disability, veteran status, color, creed, or marital status. Such incidents may be addressed through the filing of a complaint procedure or the College's Student Conduct Policy. Bias incidents can be reported to the following individual:

Deputy Davida Capece or Designee, Public Safety Office  
Fulton-Montgomery Community College  
2805 State Highway 67  
Johnstown, NY 12095  
518-736-3622, ext. 8405

Victims of bias crimes or incidents may seek counseling services from their own health care providers. The college does not offer counseling services.

## XIV. DRUG AND ALCOHOL PREVENTION PROGRAM

### A. Enforcement of Laws

In compliance with the Federal Drug Free Schools and Communities Act of 1988 and the New York State Policy on Alcohol and Controlled Substances in the Workplace, FMCC prohibits the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance and the abuse of alcohol by students and employees on college property or as part of the college's activities. New York State prohibits on-the-job use of, or impairment from, alcohol and controlled substances.

Consistent with the Drug-Free Schools and Communities Act Amendments of 1989 (Public Law 101-226), all students and employees are advised that individuals who violate federal, state, or local laws and campus policies are subject to college disciplinary action and criminal prosecution. Local police have full authority to enforce all federal and state drug laws.

Articles 220 and 221 of the New York State Penal Law set criminal penalties for possession or sale of drugs considered harmful or subject to abuse. The seriousness of the offense and penalty imposed upon conviction depend upon the individual drug and amount held or sold. The Student Code of conduct may also apply.

FMCC enforces state laws related to underage drinking. Conviction for possession and sale of controlled substances carries a number and variety of penalties under New York State Law. These range from fines to prison terms of 15 years to life, depending upon the nature of the substance, the criminal act, and the character of the crime. Federal Trafficking Law convictions also carry a variety of penalties which range from five to 30 years in prison and substantial fines. These sanctions are described in materials which are available at the centers or the Office of Academic Affairs. NYS Penal Law <http://public.leginfo.state.ny.us/menugetf.cgi?COMMONQUERY=LAWS>.

### B. FMCC Policy

FMCC policy prohibits the unlawful possession, use or distribution of illicit drugs and the abuse of alcohol by students and employees on college property or as part of the college's activities.

A student accused of possession/use of, or distribution of alcohol or drugs will be subject to the college's Student Conduct Policy and Procedures in the college catalog. Sanctions for those found responsible may include written warning, suspension, or expulsion.

There are significant psychological and physiological health risks associated with the use of illicit drugs and alcohol. Physical addiction, loss of control and withdrawal syndrome as well as serious damage to vital organs of the body can result from drug and alcohol abuse.

Employees may seek additional information at the Office of Human Resources (EAP).

## XV. INVESTIGATIONS OF MISSING PERSONS

### FMCC Missing Person's Compliance Statement

By means of this statement, FMCC adheres to formal plans that provide for the investigation of missing students and violent felony offenses committed on campus. Memorandums of understanding have been executed with various local law enforcement agencies to specifically address this issue.

This law was enacted in 1999. It was prompted by the unexplained disappearance of Suzanne Lyall from the State University of New York at Albany campus in 1998. The reforms made by this law acknowledge that improving campus safety must begin with swift and efficient investigative action and optimum access to missing person information by student's families and the public. The act:

- Requires all public, private, community colleges and universities in New York to have formal plans that provide for the investigation of missing students and violent felony offenses committed on campus.
- Expands the responsibilities of the NYS Division of Criminal Justice Services (DCJS) Missing and Exploited Children Clearinghouse to provide assistance with the dissemination of information about missing college students.

A "missing student" or "missing person," means any student of FMCC subject to provisions of section 355 (17) of the New York State Education Law. Therefore, any and all persons reported missing to FMCC, or the Department of Public Safety will be reported to law enforcement agencies having immediate jurisdiction. In 2003, President George W. Bush signed into law "Suzanne's Law," requiring police to notify the National Crime Information Center (NCIC) when someone between 18 and 21 is reported missing, as part of the national "Amber Alert" bill.

### FMCC Procedure for Missing Students

A list of titles of the persons or organizations to which students, employees or other individuals should report that a student has been missing for 24 hours is as follows:

- Any missing student report will be referred immediately to FMCC's campus security.

Students may identify a contact person who shall be notified within 24 hours of the determination that the student is missing by campus security. This contact information will be registered confidentially, will be accessible only to authorized campus officials, and will not be disclosed, except to law enforcement personnel in furtherance of a missing person investigation.

For students who are under 18 years of age and not emancipated, FMCC must notify a custodial parent or guardian within 24 hours of the determination that the student is missing, in addition to notifying any additional contact person designated by the student.

Within 24 hours of the determination by campus security that a student is missing, FMCC will:

- notify the local law enforcement agency that the student is missing, unless the local law enforcement agency was the entity that made the determination that the student is missing.
- notify any designated contact person that the student is missing; and
- if the student is under 18 years old, notify the student's custodial parent or guardian that the student is missing.

## XVI. MEDICAL EMERGENCIES

Dial 911 from any college phone or dial 911 from your cellular device.

### Medical Incidents

Emergencies can happen any place and at any moment. When an emergency arises at Fulton-Montgomery Community College, it is important to know who to notify to expedite an emergency service response to the incident. Everyone at Fulton-Montgomery Community College remains a vital link in the network of college and community resources prepared to respond to medical emergencies. Dial 911.

## XVII. GENERAL SAFETY

### A. Faculty and Staff Members' Roles

Everyone at Fulton-Montgomery Community College has a basic responsibility for his or her own personal safety; faculty and staff have an increased level of responsibility.

### B. Personal Safety

- Stairwells and out-of-the way corridors: utilize common stairwells and corridors that are traveled most frequently by others.
- Elevators: if in an elevator with someone who creates an uneasy feeling, get off as soon as possible.
- Restrooms: be extra cautious when using restrooms that are isolated or poorly lit.
- After hours: do not walk alone late at night. Create a buddy system for walking to parking lots or public transportation.
- Parking lots or garages: always lock the car and roll the windows up all the way. Park in a well-lit area. Carry keys in hand while approaching the vehicle.

### C. Prevention of Crime in the Office

- Use your keys properly:
- Never share them with anyone.
- Do not place personal identification on your key rings.
- Keep your personal keys and your office keys on separate rings.
- Report lost key rings and access card immediately.
- Keep purses or wallets on your person or lock them in a drawer or closet.
- Keep track of serial numbers of any personal items and mark them with your name or initial (i.e., radio).
- Keep coat racks away from entrances/exits to minimize temptation.
- Do not leave your office unattended. Lock it.
- Have your phone forwarded to another person's office or to voice mail.
- Report any lighting deficiencies, broken windows, or broken door locks to the facilities maintenance.
- Do not allow repairs to security or communication equipment without verifying a written order from the appropriate supervising office.

## XVIII. DOMESTIC VIOLENCE – WORKPLACE VIOLENCE INITIATIVE

Executive Order 19, issued on Oct. 22, 2007, requires all state agencies to adopt a Domestic Violence and the Workplace Policy by Aug. 1, 2008. The Office for the Prevention of Domestic Violence (OPDV) has been charged with the responsibility of developing a model policy and sample implementation procedures by Feb. 1, 2008. The workplace violence program and training Fulton-Montgomery Community College adheres to is located within the Office of Human Resources. XXII. SAFETY PROGRAMS AND SERVICES regarding safety programs and services for domestic violence and workplace violence.

## XIX. WEAPONS POSSESSION

College policy prohibits, unauthorized possession or use of firearms, explosive devices, fireworks, dangerous or illegal weapons, or hazardous materials.

### A. Safety Guidelines for Armed Subjects, Active Shooter Situations.

An active shooter is a person who appears to be actively engaged in killing or attempting to kill people in a populated area. In most cases active shooters use firearm(s) and there is no pattern or method to their selection of victims. These situations are dynamic and evolve rapidly, demanding immediately deployment of law enforcement resources to stop the shooting and mitigate harm to innocent victims. This section provides guidance to persons who may be caught in an active shooter situation and describes what to expect from responding police officers.

#### What should you do?

In general, how you respond to an active shooter will be dictated by the specific circumstances of the encounter, bearing in mind there could be more than one shooter involved in the same

situation. If you find yourself involved in an active shooter situation, try to remain calm and use these guidelines to help you plan a strategy for survival.

- If an active shooter is outside your building, proceed to a room that can be locked, close and lock all the windows and doors, and turn off all the lights; if possible, get everyone down on the floor and ensure that no one is visible from outside the room. One person in the room should call 911, advise the dispatcher of what is taking place, and inform him/her of your location; remain in place until the police or a campus administrator known to you, gives the “all clear.” Unfamiliar voices may be the shooter attempting to lure victims from their safe space; do not respond to any voice commands until you can verify with certainty that they are being issued by a police officer.
- If an active shooter is in the same building, you are, determine if the room you are in can be locked. If so, follow the same procedure described in the previous paragraph. If your room cannot be locked, determine if there is a nearby location that can be reached safely and secured, or if you can safely exit the building. If you decide to move from your current location, be sure to follow the instructions outlined below.
- If an active shooter enters your office or classroom, try to remain calm, dial 911, if possible, and alert police to the shooter’s location; if you cannot speak, leave the line open so the dispatcher can listen to what is taking place. Normally the location of a 911 call can be determined without speaking. If there is absolutely no opportunity to escape or hide, it might be possible to negotiate with the shooter; attempting to overpower the shooter with force should be considered a last resort, after all other options have been exhausted. If the shooter leaves the area, proceed immediately to a safer place, and do not touch anything that was in the vicinity of the shooter.
- No matter what the circumstances, if you decide to flee during an active shooting situation, make sure you have an escape route and plan in mind. Do not carry anything while fleeing, move quickly, keep your hands visible, and follow the instructions of any police officers you may encounter. Do not attempt to remove injured people; instead, leave wounded victims where they are and notify authorities of their location as soon as possible. Do not try to drive off campus until advised it is safe to do so by police or campus administrators.

### What to expect from responding police officers?

Police officers responding to an active shooter are trained to proceed immediately to the area in which shots were last heard; their purpose is to stop the shooting as quickly as possible. The first responding officers may be dressed in regular patrol uniforms, or they may be wearing external bulletproof vests, Kevlar helmets and other tactical equipment. The officers may be armed with rifles, shotguns, or handguns, and might be using Tasers, pepper spray or tear gas to control the situation. Regardless of how they appear, remain calm, do as the officers tell you, and do not be afraid of them. Put down any bags or packages you may be carrying and keep your hands visible at all times. If you know where the shooter is, tell the officers. The first officers to arrive will not stop to aid injured people; rescue teams composed of other officers and emergency medical personnel will follow the first officers into secured areas to treat and remove



injured persons. Keep in mind that even once you have escaped to a safe location, the entire area is still a crime scene; police will usually not let anyone leave until the situation is fully under control and all witnesses have been identified and questioned. Until you are released, remain at whatever assembly point authorities designate.

## XX. FIREARMS POLICY

Fulton-Montgomery Community College (in accordance with State and Federal laws and FMCC policies and regulations\*) prohibits any person from possessing firearms at any college facility or college sponsored event without the written authorization of the college's chief administrative officer. This policy specifically applies to law enforcement officials who may otherwise be authorized to carry firearms while off duty and to other individuals who may be licensed to carry firearms.

This policy prohibiting the possession of firearms does not apply to law enforcement officials in pursuit of official duty when authorized by federal or state law. For purposes of this policy, law enforcement officers who are required to carry firearms while taking on-duty breaks shall be considered to be in "pursuit of official duty" when on such breaks. \* The following SUNY policies and regulations apply: 8 NYCRR Part 590 – SUNY's regulations relating to firearms. SUNY's Policy for Firearms on State Operated Campuses; 8 NYCRR Part 535 SUNY's regulations for the maintenance of public order.

## XXI. STUDENT CONDUCT POLICY

### A. Policy Statement

The Student Conduct Policy sets behavioral standards for Fulton-Montgomery Community College students and defines the relationship between the college and its students. It affirms values essential to promoting individual intellectual and personal development and for creating an effective learning community. Fulton-Montgomery Community College expects students to conduct themselves in a responsible manner that is respectful of the rights, well-being, and property of all members of the college community and that supports the college's educational mission. This policy complies with section 6450 of the Educational Law and section 535 of the Rules of the Board of Trustees of the State University of New York.

**Students are expected to:**

- Treat students, faculty, and staff of the college with civility and respect.
- Represent themselves and any documentation that they may present to the college in an honest manner.
- Respect college property and the activities conducted at college facilities or college-sponsored events.
- Uphold college policies, SUNY policies and all applicable laws. Fulton-Montgomery Community College students should expect the same degree of civility and respect from other students, faculty, and staff.

## B. Scope

A student is a person who is admitted or enrolled at Fulton-Montgomery Community College. The college has an interest in student conduct which occurs during a student's matriculation or enrollment at the college, including any breaks in enrollment permitted by college policy. Students are responsible for their own behavior and the behavior of their guests.

The college does not normally pursue alleged conduct violations that occur away from Fulton-Montgomery Community College facilities or events, or that are not associated with the student's relationship with Fulton-Montgomery Community College. However, in situations when the safety of members of the college community may be endangered, the college may review such violations pursuant to the policy on student conduct.

## C. College Regulations

The following behaviors by a student, or any guest of a student, whether acting alone or with any other persons, violate the policy on student conduct:

1. Conduct that threatens or endangers the mental health, physical health or safety of any person or persons, or causes actual harm, including physical harm or threat of physical harm such as physical abuse, sexual assault, or coercion; harassment and intimidation, whether physical, verbal (oral or written) or nonverbal.
2. Dishonest conduct not covered by the Fulton-Montgomery Community College Academic Plagiarism Policy and Procedures, including forgery; alteration, fabrication or misuse of identification cards, records, grades, diplomas, college documents; or misrepresentation of any kind to a college office or official.
3. Disorderly conduct that interferes with the rights of others.
4. Intentional or reckless disruption or interference with the activities of the college or its members.
5. Theft of personal or college property or services, or illegal possession or use of stolen property.
6. Vandalism or intentional or reckless damage to personal or college property.
7. Unauthorized entry, use, or occupation of college facilities or the unauthorized use or possession of college equipment.
8. Illegal purchase, use, possession or distribution of alcohol, drugs, or other controlled substances.
9. Failure/refusal to comply with the directions of college officials who are performing the duties of their office in relation to the maintenance of safety or security.
10. Unauthorized possession or use of firearms, explosive devices, fireworks, dangerous or illegal weapons, or hazardous materials.
11. Interference with or misuse of fire alarms, elevators, or other safety and security equipment or programs, including but not limited to initiating, or causing to be initiated, any false report, warning or threat of fire, explosion, or other emergency.
12. Violation of a condition or sanction imposed (or agreed upon) due to a violation of the policy on student conduct.
13. Violation of any federal, state, or local law that poses a threat to the health, safety or well-being of the college or its individual members.

Additional information can be found at [www.fmcc.edu](http://www.fmcc.edu).

## XXII. SAFETY PROGRAMS AND SERVICES

The Department of Public Safety offers safety programs and services throughout the year and/or upon request. The focus of these programs and services changes depending on the need.

Currently, the following are offered for students and employees:

- Violence Against Women Act, prevention, and training:
- Workplace Violence Awareness and Prevention Training. The training session provides participants with information related to workplace violence, including risk factors, key elements, definition, and types of workplace violence, and more. This is generally achieved through our partnership with Domestic Assault, Sexual Assault Services of Fulton-Montgomery counties and the programs they present on our campus.
- Publications. The Department of Public Safety have various publications available that address problems such as date rape, alcohol abuse and theft. Listed on the Safety and Security website are various links to police agencies across New York that our locations operate within.
- Lighting. The college locations are routinely surveyed to ensure that exterior areas are adequately illuminated at night. Trees and shrubs that impair lighting along walks are trimmed as needed.
- Building Security. Each individual location operated by Fulton-Montgomery Community College utilizes various methods of building security. Personnel at college locations are instructed to report any suspicious situations to the police immediately.

## Appendix A

### A. Criminal Offenses

Crime	Location	2021	2022	2023
Murder and Non-negligent Manslaughter Murder and Non-negligent Manslaughter	On Campus	0	0	0
	On Campus	0	0	0
	Campus Housing	0	0	0
	Non-Campus Property	0	0	0
Manslaughter by Negligence Manslaughter by Negligence	On Public Property	0	0	0
	On Campus	0	0	0
	Campus Housing	0	0	0
	Non-Campus Property	0	0	0
	VAWA	0	0	0
Rape Rape	On Public Property	0	0	0
	On Campus	0	0	0
	Campus Housing	0	0	0
	Non-Campus Property	0	0	0
Fondling Fondling	On Public Property	0	0	0
	On Campus	0	0	0
	Campus Housing	0	0	0
	Non-Campus Property	0	0	0
Incest Incest	On Public Property	0	0	0
	On Campus	0	0	0
	Campus Housing	0	0	0
	Non-Campus Property	0	0	0
Statutory Rape Statutory Rape	On Public Property	0	0	0
	On Campus	0	0	0
	Campus Housing	0	0	0
	Non-Campus Property	0	0	0
Robbery Robbery	On Public Property	0	0	0
	On Campus	0	0	0
	Campus Housing	0	0	0
	Non-Campus Property	0	0	0
Aggravated Assault Aggravated Assault	On Public Property	0	0	0
	On Campus	0	0	0
	Campus Housing	0	0	0
	Non-Campus Property	0	0	0
Burglary Burglary	On Public Property	0	0	0
	On Campus	0	0	0
	Campus Housing	0	0	0
	Non-Campus Property	0	0	0
Motor Vehicle Theft	On Public Property	0	0	0

Motor Vehicle Theft	On Campus	0	0	0
	Campus Housing	0	0	0
	Non-Campus Property	0	0	0
Arson Arson	On Public Property	0	0	0
	On Campus	0	0	0
	Campus Housing	0	0	0
	Non-Campus Property	0	0	0

**B. Hate Crimes**

Crime	Bias Category	Location	2021	2022	2023
Murder and Non-negligent Manslaughter Murder and Non-negligent Manslaughter		On Campus	0	0	0
		On Campus	0	0	0
		Campus Housing	0	0	0
		Non-Campus Property	0	0	0
Manslaughter by Negligence Manslaughter by Negligence		On Public Property	0	0	0
		On Campus	0	0	0
		Campus Housing	0	0	0
		Non-Campus Property	0	0	0
		VAWA	0	0	0
Rape Rape		On Public Property	0	0	0
		On Campus	0	0	0
		Campus Housing	0	0	0
		Non-Campus Property	0	0	0
Fondling Fondling		On Public Property	0	0	0
		On Campus	0	0	0
		Campus Housing	0	0	0
		Non-Campus Property	0	0	0
Incest Incest		On Public Property	0	0	0
		On Campus	0	0	0
		Campus Housing	0	0	0
		Non-Campus Property	0	0	0
Statutory Rape Statutory Rape		On Public Property	0	0	0
		On Campus	0	0	0
		Campus Housing	0	0	0
		Non-Campus Property	0	0	0
Robbery Robbery		On Public Property	0	0	0
		On Campus	0	0	0
		Campus Housing	0	0	0
		Non-Campus Property	0	0	0
Aggravated Assault Aggravated Assault		On Public Property	0	0	0
		On Campus	0	0	0
		Campus Housing	0	0	0

		Non-Campus Property	0	0	0
Burglary Burglary		On Public Property	0	0	0
		On Campus	0	0	0
		Campus Housing	0	0	0
		Non-Campus Property	0	0	0
Motor Vehicle Theft Motor Vehicle Theft		On Public Property	0	0	0
		On Campus	0	0	0
		Campus Housing	0	0	0
		Non-Campus Property	0	0	0
Arson Arson		On Public Property	0	0	0
		On Campus	0	0	0
		Campus Housing	0	0	0
		Non-Campus Property	0	0	0
Larceny-Theft Larceny-Theft		On Public Property	0	0	0
		On Campus	0	0	0
		Campus Housing	0	0	0
		Non-Campus Property	0	0	0
Simple Assault Simple Assault		On Public Property	0	0	0
		On Campus	0	0	0
		Campus Housing	0	0	0
		Non-Campus Property	0	0	0
Intimidation Intimidation		On Public Property	0	0	0
		On Campus	0	0	0
		Campus Housing	0	0	0
		Non-Campus Property	0	0	0
Destruction/Damage/ Vandalism of Property Destruction/Damage/ Vandalism of Property		On Public Property	0	0	0
		On Campus	0	0	0
		Campus Housing	0	0	0
		Non-Campus Property	0	0	0

### C. VAWA Offenses

Offense	Location	2021	2022	2023
Domestic Violence	On Campus	0	0	0
	Campus Housing	0	0	0
	Non-Campus Property	0	0	0
	On Public Property	0	0	0
Dating Violence	On Campus	0	0	0
	Campus Housing	0	0	0
	Non-Campus Property	0	0	0
	On Public Property	0	0	0
Stalking	On Campus	0	0	0

	Campus Housing	0	0	0
	Non-Campus Property	0	0	0
	On Public Property	0	0	0

#### D. Arrests and Referrals for Disciplinary Action

Offense	Location	2021	2022	2023
Weapons: Carrying, Possessing, Etc. Arrests	On Campus	0	0	0
	Campus Housing	0	0	0
	Non-Campus Property	0	0	0
	On Public Property	0	0	0
Weapons: Carrying, Possessing, Etc. Disciplinary Referrals	On Campus	0	0	0
	Campus Housing	0	0	0
	Non-Campus Property	0	0	0
	On Public Property	0	0	0
Drug Abuse Violations Arrests	On Campus	0	0	0
	Campus Housing	0	0	0
	Non-Campus Property	0	0	0
	On Public Property	0	0	0
Drug Abuse Violations Disciplinary Referrals	On Campus	0	0	0
	Campus Housing	0	0	0
	Non-Campus Property	0	0	0
	On Public Property	0	0	0
Liquor Law Violations Arrests	On Campus	0	0	0
	Campus Housing	0	0	0
	Non-Campus Property	0	0	0
	On Public Property	0	0	0
Liquor Law Violations Disciplinary Referrals	On Campus	0	0	0
	Campus Housing	0	0	0
	Non-Campus Property	0	0	0
	On Public Property	0	0	0

## Appendix B

- **CONSENT** – Lack of consent results from: forcible compulsion; or incapacity to consent; or where the offense charged is sexual abuse or forcible touching, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct. Where the offense charged is rape in the third degree, a criminal sexual act in the third degree, or forcible compulsion in circumstances under which, at the time of the act of intercourse, oral sexual conduct or anal sexual conduct, the victim clearly expressed that he or she did not consent to engage in such act, and a reasonable person in the actor's situation would have understood such person's words and acts as an expression of lack of consent to such act under all the circumstances. A person is incapable of consent when he or she is: less than 17 years old; or mentally disabled; or mentally incapacitated; or physically helpless; or committed to the care and custody of the state department of correctional services, a hospital, the office of children and family services and is in residential care, or the other person is a resident or inpatient of a residential facility operated by the office of mental health, the office for people with development disabilities, or the office of alcoholism and substance abuse services, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such department or hospital.
- **CONSENT, ABBREVIATED** – Clear, unambiguous, and voluntary agreement between the participating to engage in specific sexual activity.
- **DATING VIOLENCE** – New York State does not specifically define dating violence. However, dating violence would include the crimes listed elsewhere in this document when committed by a person in a social relationship of a romantic or intimate nature with the victim. Dating violence includes, but is not limited to, sexual or physical abuse or threat of abuse. It does not include acts covered under the definition of domestic violence.
- **DOMESTIC VIOLENCE** – 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 16, 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** – Person's 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.

- **PARENT** – Means natural or adoptive parent or any individual lawfully charged with a minor child’s care or custody.
- **SEXUAL ASSAULT** – New York State does not specifically define sexual assault. However, according to the Federal Regulations, sexual assault includes offenses that meet the definitions of rape, fondling, incest, or statutory rape as used in the FBI’s UCR program.
- **SEX OFFENSES: LACK OF CONSENT** – Whether or not specifically stated, it is an element of every offense defined in this article that the sexual act was committed without consent of the victim.
- **SEXUAL MISCONDUCT** – When a person (1) engages in sexual intercourse with another person without such person’s consent; or (2) engages in oral sexual conduct or anal sexual conduct without such person’s consent; or (3) engages in sexual conduct with an animal or a dead human body.
- **RAPE IN THE THIRD DEGREE** – When a person (1) engages in sexual intercourse with another person who is incapable of consent by reason of some factor other than being less than 17 years old; (2) Being 21 years old or more, engages in sexual intercourse with another person less than 17 years old; or (3) engages in sexual intercourse with another person without such person’s consent where such lack of consent is by reason of some factor other than incapacity to consent.
- **RAPE IN THE SECOND DEGREE** – When a person (1) being 18 years old or more, engages in sexual intercourse with another person less than 15 years old; or (2) engages in sexual intercourse with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated. It is an affirmative defense to the crime of rape in the second degree the defendant was less than 4 years older than the victim at the time of the act.
- **RAPE IN THE FIRST DEGREE** – When a person engages in sexual intercourse with another person (1) by forcible compulsion; or (2) who is incapable of consent by reason of being physically helpless; or (3) who is less than 11 years old; or (4) who is less than 13 years old, and the actor is 18 years old or more.

- **CRIMINAL SEXUAL ACT IN THE THIRD DEGREE** – When a person engages in oral or anal sexual conduct (1) with a person who is incapable of consent by reason of some factor other than being less than 17 years old; (2) being 21 years old or more, with a person less than 17 years old; (3) with another person without such persons consent where such lack of consent is by reason of some factor other than incapacity to consent.
- **CRIMINAL SEXUAL ACT IN THE SECOND DEGREE** – When a person engages in oral or anal sexual conduct with another person (1) and is 18 years or more and the other person is less than 15 years old; or (2) who is incapable of consent by reason of being mentally disabled or mentally incapacitated. It is an affirmative defense that the defendant was less than 4 years older than the victim at the time of the act.
- **CRIMINAL SEXUAL ACT IN THE FIRST DEGREE** – When a person engages in oral or anal sexual conduct with another person (1) by forcible compulsion; (2) who is incapable of consent by reason of being physically helpless; (3) who is less than 11 years old; or (4) who is less than 13 years old, and the actor is 18 years old or more.
- **FORCIBLE TOUCHING** – When a person intentionally, and for no legitimate purpose, forcibly touches the sexual or other intimate parts of another person for the purpose of degrading or abusing such person; or for the purpose of gratifying the actor’s sexual desire. It includes squeezing, grabbing, or pinching.
- **PERSISTENT SEXUAL ABUSE** – When a person commits a crime of forcible touching, or second- or third-degree sexual abuse within the previous 10-year period, has been convicted two or more times, in separate criminal transactions for which a sentence was imposed on separate occasions of one of one of the above-mentioned crimes or any offense defined in this article, of which the commission or attempted commissions thereof is a felony.
- **SEXUAL ABUSE IN THE THIRD DEGREE** – When a person subjects another person to sexual contact without the latter’s consent. For any prosecution under this section, it is an affirmative defense that (1) such other person’s lack of consent was due solely to incapacity to consent by reason of being less than 17 years old; and (2) such other person was more than 14 years old and (3) the defendant was less than 5 years older than such other person.
- **SEXUAL ABUSE IN THE SECOND DEGREE** – When a person subjects another person to sexual contact and when such other person is incapable of consent by reason of some factor other than being less than 17 years old; or (2) less than 14 years old.
- **SEXUAL ABUSE IN THE FIRST DEGREE** – When a person subjects another person to sexual contact (1) by forcible compulsion; (2) when person is incapable of consent by reason of being physically helpless; or (3) when the other person is less than 11 years old; or (4) when the other person is less than 13 years old.
- **AGGRAVATED SEXUAL ABUSE** –For the purposes of this section, conduct performed for a valid medical purpose does not violate the provisions of this section.

- **AGGRAVATED SEXUAL ABUSE IN THE FOURTH DEGREE** – When a person inserts a (1) foreign object in the vagina, urethra, penis or rectum of another person and the other person is incapable of consent by reason of some factor other than being less than 17 years old; or (2) finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person and such person is incapable of consent by reason of some factor other than being less than 17 years old.
- **AGGRAVATED SEXUAL ABUSE IN THE THIRD DEGREE** – When a person inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person (1)(a) by forcible compulsion; (b) when the other person is incapable of consent by reason of being physically helpless; or (c) when the other person is less than 11 years old; or (2) causing physical injury to such person and such person is incapable of consent by reason of being mentally disabled or mentally incapacitated.
- **AGGRAVATED SEXUAL ABUSE IN THE SECOND DEGREE** – When a person inserts a finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person by (1) forcible compulsion; or (2) when the other person is incapable of consent by reason of being physically helpless; or (3) when the other person is less than 11 years old.
- **AGGRAVATED SEXUAL ABUSE IN THE FIRST DEGREE** – When a person subjects another person to sexual contact: (1) by forcible compulsion; or (2) when the other person is incapable of consent by reason of being physically helpless; or (3) when the other person is less than 11 years old; or (4) when the other person is less than 13 years old and the actor is 21 years old or older.
- **COURSE OF SEXUAL CONDUCT AGAINST A CHILD IN THE SECOND DEGREE** – When over a period of time, not less than three months, a person: (1) engages in two or more acts of sexual conduct with a child less than 11 years old; or (2) being 18 years old or more engages in two or more acts of sexual conduct with a child less than 13 years old. A person may not be subsequently prosecuted for any other sexual offense involving the same victim unless the other charges offense occurred outside of the time period charged under this section.
- **COURSE OF SEXUAL CONDUCT AGAINST A CHILD IN THE FIRST DEGREE** – When a person over a period of time, not less than three months in duration, a person: (1) engages in two or more acts of sexual conduct, or aggravated sexual contact with a child less than 11 years old; or (2) being 18 years old or more engages in two or more acts of sexual conduct which includes at least one act of sexual intercourse, oral sexual conduct, anal sexual conduct or aggravated sexual contact with a child less than 13 years old.
- **FACILITATING A SEX OFFENSE WITH A CONTROLLED SUBSTANCE** – A person is guilty of facilitating a sex offense with a controlled substance when he or she: (1) knowingly and unlawfully possesses a controlled substance or any preparation, compound, mixture or substance that requires a prescription to obtain and administers such substance or preparation, compound, mixture or substance that requires a prescription to obtain to

another person without such person's consent and with intent to commit against such person conduct constituting a felony defined in this article; and (2) commits or attempts to commit such conduct constituting a felony defined in this article.

- **INCEST IN THE THIRD DEGREE** – A person is guilty of incest in the third degree when he or she marries or engages in sexual intercourse, oral sexual conduct or anal sexual conduct with a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or the half blood, uncle, aunt, nephew or niece.
- **INCEST IN THE SECOND DEGREE** – A person is guilty of incest in the second degree when he or she commits the crime of rape in the second degree, or criminal sexual act in the second degree, against a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or the half blood, uncle, aunt, nephew or niece.
- **INCEST IN THE FIRST DEGREE** – A person is guilty of incest in the first degree when he or she commits the crime of rape in the first degree, or criminal sexual act in the first degree, against a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or half blood, uncle, aunt, nephew or niece.
- **STALKING IN THE FOURTH DEGREE** – When a person intentionally, and for not legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct (1) is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person's immediate family or a third party with whom such person is acquainted; or (2) causes material harm to the mental or emotional health of such person, where such conduct consists of following, phoning or initiating communication or contact with such person, a member of such person's immediate family or a third party with whom such person is acquainted, and the actor was previously clearly informed to cease that conduct; or (3) is likely to cause such person to reasonably fear that his or her employment, business or career is threatened, where such conduct consists of appearing, phoning 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.
- **STALKING IN THE THIRD DEGREE** – When a person (1) commits the crime of stalking in the fourth degree against any person in three or more separate transactions, for which the actor has not been previously convicted; or (2) commits the crime of stalking in the fourth degree against any person, and has previously been convicted, within the preceding 10 years of a specified predicate crime and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or (3) with an intent to harass, annoy or alarm a specific person, intentionally engages in a course of conduct directed at such person which is likely to cause such person to reasonably fear physical injury or serious physical injury, the commission of a sex offense against, or the kidnapping, unlawful imprisonment or death of such person or a member of such person's immediate

family; or (4) commits the crime or stalking in the fourth degree and has previously been convicted within the preceding ten years of stalking in the fourth degree.

- **STALKING IN THE SECOND DEGREE** –When a person: (1) commits the crime of stalking in the third degree and in the course of and furtherance of the commission of such offense: (a) displays, or possesses and threatens the use of, a firearm, pistol, revolver, rifle, sword, Billy, blackjack, bludgeon, plastic knuckles, metal knuckles, chuka stick, sand bag, sandclub, slingshot, slung shot, shirken, “Kung Fu Star,” dagger, dangerous knife, dirk, razor, stiletto, imitation pistol, dangerous instrument, deadly instrument or deadly weapons; or (b) displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or (2) commits the crime of stalking in the third against any person, and has previously been convicted, within the preceding five years, of a specified predicate crime, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or (3) commits the crime of stalking in the fourth degree and has previously been convicted of stalking in the third degree; or (4) being 21 years of age or older, repeatedly follows a person under the age of 14 or engages in a course of conduct or repeatedly commits acts over a period of time intentionally placing or attempting to place such person who is under the age of 14 in reasonable fear of physical injury, serious physical injury or death; or (5) commits the crime of stalking in the third degree, against 10 or more persons, in 10 or more separate transactions, for which the actor has not been previously convicted.
- **STALKING IN THE FIRST DEGREE** – When a person commits the crime of stalking in the third degree or stalking in the second degree and, in the course and furtherance thereof, he or she intentionally or recklessly causes physical injury to the victim of such crime.