



MarymountManhattan

Code of Conduct

2018 - 2019

Student Code of Conduct

I. INTRODUCTION

Living in a community as complex as New York City requires policies that are designed to maintain a safe living and learning environment and also to create a community where all members are able to express their points of view. Students enrolling in the College assume an obligation to conduct themselves in a responsible and mature manner on campus and at College-sponsored events occurring off campus. It is clear that in a community of learning, willful disruption of the educational process, destruction of property, and interference with the orderly process of the College, or with the rights of other members of the College, cannot be tolerated. In order to fulfill its educational function, the College has the authority and responsibility to maintain order within the College and to discipline those who are disruptive of the educational process.

II. SCOPE

The Code of Conduct applies to conduct that occurs (a) on-campus; or (b) off-campus, if (1) in connection with a College program or activity, or (2) involving at least two College students, or (3) the underlying behavior is reasonably believed to pose a threat of harm to an individual or the campus community in general, or (4) the underlying behavior may have the effect of creating a hostile environment for any member of the campus community.

III. Sexual Harassment and Sexual Violence

All students are prohibited from committing sexual misconduct, including sexual harassment, sexual assault, stalking, and relationship violence. Complaints of sexual misconduct, including sexual harassment, sexual assault, stalking, and relationship violence are governed by the [College's Policy on Sexual Misconduct, Sexual Assault, Stalking, and Relationship Violence](#) and not the Code of Conduct. Students are reminded that they may contact the College's Title IX Coordinator Rebecca Mattis-Pinard at titleixcoordinator@mmm.edu with any questions about or to make a complaint of sexual misconduct, including sexual harassment, sexual assault, stalking, and relationship violence.

Marymount Manhattan College's complete policy on Sexual Misconduct can be found [online](#). For further assistance, or to make a report, contact:

Rebecca Mattis-Pinard
Title IX Coordinator
President's Office, Main 307
212-517-0563
titleixcoordinator@mmm.edu

STUDENTS' BILL OF RIGHTS

All students have the right to:

1. Make a report to local law enforcement and/or state police;
2. Have disclosures of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution;

4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the Reporting Individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by the institution, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a Reporting Individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution.
12. Receive resources, such as counseling and medical attention.
13. Confidentially or anonymously disclose a crime or violation *to* confidential resources, as set forth in Section IV(C)(1) of the [Sexual Misconduct Policy](#).
14. Make a report to an employee with the authority to address complaints, including the Title IX Coordinator or the Director of Human Resources, Campus Security, Local Law Enforcement, and/or Family Court or Civil Court.
15. Receive reasonable accommodations in academic, living, or working environments.

The health and safety of every student at the College is of utmost importance. The College recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at the time that the Code of Conduct is violated may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The College strongly encourages students to report instances of violence, sexual misconduct, domestic violence, dating violence, stalking, sexual assault, sexual harassment, unlawful discrimination, unlawful harassment, and retaliation to College officials. A bystander acting in good faith or an individual who has experienced violence, sexual misconduct, domestic violence, dating violence, stalking, sexual assault, sexual harassment, unlawful discrimination, unlawful harassment, and/or retaliation and reports the incident(s) in good faith to College officials or law enforcement will not be subject to the College's Code of Conduct for violations of alcohol and/or drug use occurring at or near the time of the commission of the violence, sexual misconduct, domestic violence, dating violence, stalking, sexual assault, sexual harassment, unlawful discrimination, unlawful harassment, and retaliation.

In addition, students reporting the presence, possession, storage, or use, including the threat of use, of any weapon such as a firearm, knife, realistic replica of a weapon, bomb, etc., or any item used as a weapon or of such nature that it is intended for use as a weapon while on College property or attending a College-sponsored event, will not be subject to the College's Code of Conduct for violations of alcohol and/or drug use policies.

IV. VIOLATIONS OF THE CODE OF CONDUCT

Disciplinary action may be initiated by the College or by any member of the College community. Sanctions may be imposed upon any student or student organization found in violation of the Code of Conduct. Even the most severe sanction, including suspension or expulsion, can be imposed for the first violation of any of the following rules and regulations:

1. Violation of any College policy, regulation, or community standard contained in any official publication or administrative announcement.
2. Violation of local, state, or federal law on College property, or off-campus when such violation of the law is a threat to the safety or security of other College community members.
3. Violation of published policies governing College residence halls.
4. Academic dishonesty, including but not limited to, cheating and plagiarism.
5. Unlawful discrimination and unlawful harassment, verbal, physical or otherwise, based on race, color, gender, age, sexual orientation, gender identity and expression, religion/creed, ethnic or national origin, alienage or citizenship status, disability, pregnancy, marital status, partnership status, veteran status, genetic information, or any other protected status that has the purpose or effect of interfering with a person's work or educational performance; creates an intimidating, hostile or offensive working, learning or living environment; or interferes with a person's ability to participate in or benefit from a class, an educational program or activity; or will cause physical or mental injury.
6. Verbal, physical, psychological, or other abuse, including threat of bodily harm to self or any person or conduct that threatens or endangers the physical and/or emotional health or safety of any persons in the College community.
7. Retaliating against an individual (treating an individual differently) because that individual complained that a College policy or regulation was violated, served as a witness to the complaint, or otherwise participated in the investigation on a complaint.
8. Disruption of operations of the College community. Disruption is an action or combination of actions by an individual or a group, which interferes with, hinders, obstructs, or prevents the right of others to freely participate in its programs, services, or academic settings.
9. Participating in a campus demonstration that disrupts College operations or infringes on the rights of others, including, but not limited to, inciting a riot.
10. Disrupting or endangering the safety of the community: e.g., tampering with or misuse of fire alarms, fire exits, fire-fighting or electrical equipment, sprinkler systems, and other safety devices, falsely reporting a bomb or fire, or engaging in behavior that creates a fire or safety hazard.
11. Disorderly conduct including, but not limited to, lewd, indecent, or obscene conduct on College property or while attending a College-sponsored event; conduct that is an obstruction or disruption of College-sponsored activities.
12. Subjecting any person to the risk of bodily harm, severe emotional distress, or causing or encouraging any person to commit an act that would be a violation of law or College regulations, for the purpose of initiating, promoting, fostering, or confirming any form of affiliation with a student group or organization. The express or implied consent of the victim is irrelevant in determining whether or not there has been a violation.

13. Possession, storage, or use, including the threat of use, of any weapon such as a firearm, knife, realistic replica of a weapon, bomb, etc., or any item used as a weapon or of such nature that it is intended for use as a weapon while on College property or attending a College-sponsored event. Weapons include any object or substance designed or used to inflict a wound, cause injury, or incapacitate.
14. Use, possession, distribution, and/or being under the influence of alcoholic beverages, except as permitted by law and College policy.
15. Use, possession, distribution, and/or being under the influence of narcotics, drugs, or any illegal or controlled substances, except as permitted by law and College policy. Furthermore, students are prohibited from the on-campus possession of any type of paraphernalia associated with the use of drugs.
16. Theft of, possession of stolen property, or damage to property of the College or to property of any of its members or visitors.
17. Participation in any form of illegal gambling. Gambling refers to unauthorized lotteries, raffles, or other games of chance. These activities are not to be conducted on campus by organizations or individuals.
18. Unauthorized and/or unethical use or misuse of any computer, computer system, service, program, data, network, or communication network.
19. Posting of announcements and other publicity items at the College that are not in accordance with the guidelines set forth by the Division of Student Affairs and/or the Office of Student Development and Activities and/or the appropriate department.
20. Filing and/or furnishing false information to a College official.
21. Forgery, alteration, destruction, or misuse of College documents, records, identification cards, identification numbers, or papers.
22. Failure to comply with directives of College officials acting in the performance of their duties.
23. Abuse or reckless disregard of the disciplinary procedure, including failure to answer an official summons, to comply with sanction terms, disruption of a disciplinary hearing, harassment of any witness, or providing false or inaccurate information at any point during the disciplinary process.
24. Unauthorized entry into or use of College facilities.
25. Smoking or vaping in any non-smoking area.
26. Intentional destruction, damage, misuse or defacing of College property.
27. Littering or endangering the environment.

V. DISCIPLINARY PROCEDURES

A. Reporting an Offense and Deciding on Jurisdiction

Persons with knowledge of a possible violation of the Code of Conduct, as set forth in this Student Handbook, should promptly report such violations to the Office of the Vice President for Student Affairs. This paragraph does not apply to individuals who have experienced sexual misconduct, sexual harassment, domestic violence, dating violence, and/or stalking and would prefer not to report the situation, as provided for in the [Policy on Sexual Misconduct, Sexual Assault, Stalking, and Relationship Violence](#). If the suspected violation happened in the residence halls, the report should be directed to the Office of Residence Life. If there is a Code of Conduct

violation in the residence halls, the Residence Life judicial officer may elect to refer the student to the Vice President for Student Affairs (VPSA) or their designee for disciplinary actions under the Code of Conduct instead of the judicial process as outlined in *The Resident's Guide to Community Living*.

Upon receiving a complaint of a Code of Conduct violation, the VPSA or their designee shall inform the student of the allegations and undertake an investigation of the matter. The VPSA or their designee will determine whether the complaint will be resolved through the Informal Resolution process or whether a Formal Disciplinary Hearing will be held.

These Disciplinary Procedures set forth below refer to investigations conducted under the authority of the VPSA or their designee. For procedures pertaining to the residence halls, consult the handbook *The Resident's Guide to Community Living* by contacting the Office of Residence Life. For matters of academic honesty, please see Guidelines and Policies for [Academic Honesty](#).

B. Actions Prior to Resolutions

Prior to resolution of the alleged charges, a student's status may be altered and the right to be on campus and to attend classes may be suspended at the discretion of the VPSA or their designee, such as where the student constitutes an immediate threat to the security or emotional safety and well-being of members of the College community, guests, or College property.

C. Standard for Violations

In determining whether a student violated the Code of Conduct, the College's findings will be made using the "preponderance of the evidence" standard. This standard requires that the information supporting a finding that the Code of Conduct was violated be more convincing than the information in opposition to it. Under this standard, individuals are presumed not to have engaged in behavior that violates the Code of Conduct unless a preponderance of the evidence supports a finding that such behavior occurred.

Where the College views a student with a disability as a potential threat to others, and the risk of harm to others is not imminent (i.e. not a situation the College deems to be an emergency), the College will make an individualized assessment of the threat the student poses to others and determine whether the student's misconduct is related to the student's disability before taking disciplinary action against the student.

1. The College's determination that a student with a disability poses a direct threat to the health or safety of others shall be based on an individualized and objective assessment of the student and on reasonable judgment that relies on current medical or clinical mental health knowledge or the best available objective evidence.
2. In determining whether a student poses a direct threat to the health, welfare or safety of others, the College shall consider the following factors: the duration, nature and severity of the risk of harm to the health or safety of others; the probability that the potential injury will actually occur; and whether reasonable modifications of the College's policies, practices or procedures, or the provisions of auxiliary aids and services, will mitigate the risks.
3. At least three of the following administrators as designated by the Vice President for Student Affairs, will meet to assess whether a student with a disability poses a direct threat to the health or safety of others:
 - a. Vice President for Student Affairs
 - b. Dean of Students
 - c. Director of Counseling and Wellness Center
 - d. Vice President for Academic Affairs or their designee
 - e. Dean of Academic Advisement and Retention

- f. Director of Disability Services
4. Should the three administrators determine:
 - a. The misconduct is not caused by the student's disability; the student will proceed to the next step in the Code of Conduct.
 - b. The misconduct is caused by the student's disability; the student will be mandated for a referral to the Counseling and Wellness Center for a risk assessment to determine if a Medical Leave of Absence is recommended.

D. Informal Resolutions

Notice of the alleged violation and the informal review process should occur as soon as reasonably possible after the alleged violation. The VPSA or their designee shall designate a college officer (the Officer) to investigate the alleged violation. The Officer shall then meet with the student face-to-face and give the student an opportunity to explain any facts bearing on the alleged violation, i.e. "their side of the story." The Officer may also interview others who are involved, including anyone allegedly harmed by the alleged violation.

After a fair and impartial assessment, the Officer shall make a determination of whether a Code of Conduct violation occurred using the preponderance of the evidence standard. Once the Officer has determined if the Code of Conduct has been violated, they will prepare an Outcome Letter, which could include one or more of the following:

1. A "No Contact" order;
2. Any appropriate disciplinary sanction(s).

If the Officer determines that the Code of Conduct was violated, the College will act promptly to eliminate the offending conduct, prevent its recurrence, and address its effects, which may include sanctions/discipline, where appropriate.

The Outcome Letter will be sent to the student who is the subject of the investigation and to the VPSA.

- If the student accepts the disciplinary decision, the student shall adhere to the parameters and/or sanction(s) indicated in the letter. Failure to do so will constitute a separate violation of the Code of Conduct and shall result in further disciplinary review.
- If the student rejects the disciplinary decision, the case will automatically be referred to a Formal Disciplinary Hearing.

Students shall submit their acceptance or rejection of the disciplinary decision in writing to the VPSA within 7 calendar days of notification of the decision.

E. Formal Disciplinary Hearing

The VPSA or their designee may initiate a Formal Disciplinary Hearing where (a) a student does not accept the informal disciplinary decision, (b) a student elects not to go forward with the Informal Resolution process, or (c) they initially determine that a Formal Disciplinary Hearing is warranted. In all instances an investigation will precede the convening of the Disciplinary Review Board.

The case is then sent to the Disciplinary Review Board, which consists of a senior administrator designated by the Vice President for Student Affairs, up to two staff members, one member from the faculty appointed by the Vice President for Academic Affairs, and one student representative recommended by the Student Government

Association. The Vice President for Student Affairs shall serve as Ex Officio. The senior administrator will serve as the chair.

The following procedures shall be used:

1. The student shall be notified of the hearing time in writing, and be provided with all relevant documents, by the VPSA or their designee. The student(s) shall report at the designated time or the case may be heard without the student(s) being present. All hearings shall take place within 14 calendar days of notification that a Formal Disciplinary Hearing will take place.
2. All students participating in the hearing shall have the right to be accompanied by a student, faculty or staff member from within the College to act as an advisor and provide guidance and assistance, if necessary. The person chosen to be an advisor may not already be, or reasonably anticipated to be, directly involved in the investigative process (for example, as a reporting individual, responding individual, or witness). This advisor shall not have the right to speak or ask questions during the hearing or investigative process.
3. In cases involving more than one student, a single hearing may be scheduled for all of the students. If any individual requests a separate hearing, or if at the discretion of the VPSA separate hearings would be beneficial, such shall be provided. Where hearings involving several students are held, individual decisions shall be issued.
4. If the offense was originally reported by another student, that student will be called as a witness. This student will receive only a copy of the notes from their interview during the investigation and they have the option to testify in person, testify via video conferencing (if available), or confirm to the Vice President for Student Affairs that the notes from the investigation are an accurate representation of what occurred. If the student witness chooses to testify, then the charged student has the right to question them as a witness.
5. During the hearing, charges shall be presented, and the student who has been charged shall be asked by the Disciplinary Review Board Chair to submit a plea. The student's plea may take one of the following forms:
 - a. Not Responsible: If the student pleads not responsible, the evidentiary phase of the proceeding shall commence. The Disciplinary Board shall admit and consider all relevant facts, which may be in the form of documents (written, electronic, or otherwise) or testimony from witnesses or evidence presented by witnesses or other appropriate parties. The student charged shall then be allowed to present to the Board any facts, evidence, documents (written, electronic, or otherwise), or testimony from witnesses to the case. Each of the parties shall then be allowed the opportunity for further statements and summarization with the student charged having the final statement. All parties shall then be asked to leave the room and a decision shall be made.
 - b. Responsible: If the student charged pleads responsible, both the student charged and other appropriate parties shall be provided an opportunity to make a statement. All parties shall then be asked to leave the room and a decision shall be made.
 - c. Responsible with Extenuating Circumstances: If the student charged pleads responsible with extenuating circumstances, they shall be provided an opportunity to present facts showing mitigating circumstances.
6. If the student(s) charged wish(es) to present witnesses, he or she may do so in an orderly manner as determined by the chair. Other appropriate parties are allowed to make a statement if needed. After all the facts have been presented, all parties are asked to leave the room and a decision shall be made.
7. Students may provide witnesses on their behalf who may be questioned by the Disciplinary Board. A witness may or may not be questioned by the Board. The Board Chair shall inquire of a witness before he or she speaks as to the nature of the expected testimony. If the Board Chair determines the proposed

testimony has already been presented and is merely cumulative or if the proposed testimony is irrelevant, the witness's testimony may be refused. Witnesses may submit a written statement instead of appearing at the hearing unless the Board Chair determines that live testimony is necessary.

8. The Disciplinary Board or student charged may pose relevant questions to all persons appearing as witnesses before the Board. The testimony of any person shall be limited to the incident or alleged violation being considered. Testimony by a witness shall be terminated when it ceases to be relevant.
9. Hearings shall be closed to the public. The only individuals permitted in the Hearing are members of the Disciplinary Review Board, the student accused of violating the Code of Conduct and his/her advisor (if applicable), student(s) who experienced or is reported to have experienced unlawful discrimination, unlawful harassment, or retaliation in connection with the alleged Code of Conduct violation and his/her advisor (if applicable), and relevant members of the College faculty, administration, and/or staff. Witnesses shall be permitted in the hearing room only during their testimony.
10. If the conduct of any person disrupts the hearings, the Board Chair may order that they be removed from the hearing.
11. The Disciplinary Board shall determine the weight of any given evidence submitted. Decisions determining responsibility shall be based on the evidence that is admitted.
12. Pending final decision on the charges, the status of a student may be altered and the student's right to be on campus and to attend classes may be suspended. This action may occur where the person threatens to disrupt or harm others or where the welfare and property or operation of the College may be jeopardized.
13. A student's willful or neglectful failure to appear at the hearing may result in the hearing taking place without the student present. The student shall comply with any imposed sanction issued in his or her absence. A hearing may be postponed or continued if the student provides medical documentation that he/she is unable to attend the hearing.
14. The decision of the Disciplinary Board shall be given in writing within 48 business hours of the hearing. The Disciplinary Board may take one or more of the following actions: find the student not responsible for the charges; find the student responsible and issue sanctions, uphold the original finding and sanction; or issue sanctions different from those originally imposed.

F. APPEAL

The decision of the Disciplinary Board shall be final and binding, subject only to discretionary review by the President of the College. Students wishing to appeal must do so within 7 calendar days of receipt of the disciplinary letter from the Disciplinary Board.

The President will review an appeal only if the student makes a credible showing of the existence of one or more of the following:

1. The resolution failed to comply with the procedures set forth herein and the student was prejudiced as a result thereof.
2. There is new and relevant information that was unavailable, with reasonable diligence and effort, at the time of the investigation, that could reasonably affect the findings; or,
3. The sanction(s) imposed are disproportionate to the determined violation(s).

If the appeal is accepted, the President shall determine whether to exercise one of the following options:

- i. Uphold the decision.
- ii. Remand the matter to the Disciplinary Board for further review. Upon remand, the Disciplinary Board shall conduct further proceedings or take such actions as the President shall so direct. The decision of the President shall be final and binding and not subject to further review.

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VI. DISCIPLINARY SANCTIONS

Any student of the College found in violation of conduct prohibited under the Code of Conduct shall be subject to any one or more of the following sanctions following the completion of the above Disciplinary Procedures:

1. Oral or Written Notice: An oral or written reprimand which states that a student's conduct is in violation of the Code of Conduct. Subsequent violations may result in the imposition of additional sanctions.
2. Disciplinary Probation: Levied for a specific period of time based on the seriousness of the case. Disciplinary Probation constitutes a loss of good standing at the College, and serves as a warning that any further violation of the Code of Conduct may result in the imposition of additional sanctions, including suspension or expulsion.
3. Restitution: Reimbursement in the amount of the cost to replace or repair stolen or damaged property of the College or property damaged at a College sponsored event. The restitution should not exceed the cost of replacing or restoring the property and/or labor costs of replacement.
4. Imposition of Special Conditions: Assignment of a task appropriate to the circumstances of the case. Special conditions may include completion of service hours on campus or in the community, or compliance with a behavioral contract.
5. Interim Suspension: Levied by the Vice President for Student Affairs or a Designee where she or he is satisfied that the continued presence of the student on campus and/or in the residence hall constitutes a threat to the security or emotional safety and well-being of members of the College community, guests, or College property.
6. Suspension: A separation of the student from the College for a definite or indefinite period of time or until written specified conditions are met. Conditions may include a ban on visitation on the campus without prior written approval from the VPSA or their designee.
7. Expulsion: Permanent termination of student status from the College.
8. Other sanctions which are deemed appropriate by the College.

VII. TRANSCRIPT NOTATION POLICY

If a student is found responsible through the College's adjudication process for murder, sex offenses (forcible or nonforcible), robbery, aggravated assault, burglary, motor vehicle theft, manslaughter, or arson, as defined in the Jeanne Clery Act, and the imposed sanction is either suspension or expulsion, then that student's academic transcript will be notated. If the violation results in suspension, the student's transcript shall note, "Suspended after a finding of responsibility for a code of conduct violation." If the violation results in expulsion, the student's transcript shall note, "Expelled after a finding of responsibility for a code of conduct violation."

Should a student withdraw while the investigation of a murder, sex offenses (forcible or nonforcible), robbery, aggravated assault, burglary, motor vehicle theft, manslaughter, or arson complaint is pending, the student's transcript will note, "Withdrew with conduct charges pending."

Notations for expulsion are final and cannot be appealed or removed from a student's transcript. Transcript notations for suspension may be appealed, provided that such notation shall not be removed prior to one year after conclusion of the suspension. In order to appeal a notation for suspension, the student must petition the Vice President for Student Affairs in writing. The determination of whether to remove a transcript notation for suspension lies in the sole discretion of the Vice President for Student Affairs and they may request that the student provide evidence supporting their request for the transcript notation removal. If a finding that the Code of Conduct was violated is vacated, then the notation on the transcript will be removed within 30 days.