



FAQ's for Respondents

What are the Title IX and New York State “Enough is Enough” laws?

“Title IX” refers to Title IX of the Education Amendments Act of 1972, a federal civil rights law. It prohibits sex discrimination in educational programs and activities that receive federal funding. New regulations now narrow the definition of sexual harassment, but New York State Education Law 129-B (“Enough is Enough”), which prohibits similar misconduct, may also prohibit conduct that is not covered by Title IX. Both laws require universities to respond when reports of sexual misconduct, dating violence, domestic violence, and stalking are made.

What types of situations can I report to the Title IX Coordinator?

Students/employees may report sexual harassment, sexual assault, relationship violence, stalking, pregnancy discrimination, and other discrimination based upon sex or gender, sexual orientation, or gender identity to the Title IX Coordinator.

Who has to report these kinds of situations to the Title IX Coordinator?

Monroe Community College requires most college officials who are supervisors, faculty, and employees who regularly interact with students, to report sex/gender-based discrimination, sexual misconduct, relationship violence, and stalking to the Title IX Coordinator so the college may offer resources to the student; help the student understand what their rights are; and explain the Title IX Grievance and Student Conduct investigation/hearing processes. In addition, by tracking this information, the college may be able to identify patterns and trends to help promote campus safety.

Will my parents be notified?

If Monroe Community College has reason to believe that a student's health or safety is at risk, it will communicate with the student's emergency contact. Otherwise, the college may only talk to a student's parents or guardians about a situation concerning sexual violence, stalking, etc., if the student has signed an authorization giving consent. If no authorization is signed, the college may only discuss its process and is prohibited from talking about any particular situation to parents/guardians.

Will the Title IX Coordinator take the side of the person making the complaint (the complainant)?

No. That is not the Title IX Coordinator's role. The Title IX Coordinator's role is one that ensures due process and equity to all of the students involved; the Title IX Coordinator is not an advocate for either the complainant or the person accused (“respondent”).

Who can I talk to confidentially about my situation?

Counselors in Counseling Services and Ivan Matthew on the Downtown Campus are confidential resources. Information shared with a confidential resource will not be disclosed (unless there's a threat of harm to self or others).

- Counseling Services, 3-103 Brighton Campus, 585-292-2140
- Ivan Matthew, Student Engagement Center Downtown Campus, 585-685-6169

Additionally, SUNY developed a great resource that provides both on and off campus resources, depending upon your location: <https://www.suny.edu/violence-response/>

Is there other support available to me?

Yes. A respondent has the right to the following:

- **No Contact Order:** The Title IX Coordinator can issue a No Contact Order between students, which prohibits contact between them, but is not disciplinary.
- **Faculty Notice:** A notice to faculty can be issued that states the student is experiencing a stressful situation; the letter is not issued by the Title IX Coordinator, and these letters are issued for a variety of reasons (illness, a death in the family, etc.).
- **Alternate work schedules:** If the students work together on campus, the Title IX Coordinator can arrange alternative work schedules.
- **Change in residential housing:** A student may choose to be moved. In limited circumstances, the college may require the respondent to move.
- **Public Safety Escort:** Students may request that a Public Safety Officer walk them from one location to another on campus. Public Safety can be reached at 585-292-2911.
- **Tutoring and Academic Assistance Center (TAAC):** Tutoring and academic support services are available to all students. If a student is struggling with their courses because of a situation related to a report of sexual misconduct, relationship violence, or stalking, we encourage them to take advantage of the available services.
- **Course Withdrawal/re-assignment:** The college may be able to assist a student with withdrawing from a class/scheduling a different section.
- **Other:** There might be other circumstances in which the Title IX Coordinator/college may be able to help.

What if something happened off-campus?

- **Title IX Grievance/Student Conduct:** If the respondent is a student, then the complainant has the ability to proceed with a Title IX or Student Conduct investigation, depending on the circumstances, at Monroe Community College. If the complainant attends a different university, that student has the right to request that the college conduct a Student Conduct investigation. The Student Code of Conduct states, "The Student Code of Conduct ... may also apply off-campus when the Vice President of

Student Services or designee determines that the off-campus conduct affects a substantial College interest.”

- **Criminal action:** The complainant has the ability to file a police report with the appropriate law enforcement agency and proceed with criminal charges, regardless of where the situation occurred.

Will the police be called?

It is the complainant who decides whether to contact the police.

What happens if a criminal complaint is filed?

When a criminal complaint is made, the police conduct an investigation and may refer the matter to the District Attorney’s Office to determine if there is enough evidence to support a violation of New York State Penal Law and to press charges. The standard of evidence in a criminal matter is “beyond a reasonable doubt.”

You may choose to communicate with your parents/guardians to determine how to best proceed.

What happens after the Title IX Coordinator is notified? Will the college automatically begin an investigation?

The Title IX Coordinator will first reach out to the complainant to let them know that they have the right to request an investigation under the Title IX Grievance Policy or the Student Code of Conduct and the right to make a police report. If the complainant does not want to proceed with a Monroe Community College investigation, the college may still decide to move forward, depending on the circumstances.

Exceptions to when an investigation may be started, despite the complainant’s wishes, include: 1) If the respondent has a history of violent behavior or is a repeat offender; 2) If the incident is an escalation of behavior; 3) If there is an increased risk that the respondent will commit additional acts of violence; 4) If the respondent used a weapon or force; 5) If the complainant is a minor; 5) If there’s a pattern of perpetration by a particular group or at a given location.

If the alleged misconduct falls within the **Title IX Grievance Policy**, the college may choose to conduct an investigation, despite the complainant’s wishes, in cases where there is sufficient evidence to move forward without the student’s participation, where the respondent may pose a continued risk to the complainant or the college community.

If no investigation is conducted, it is possible the Title IX Coordinator will meet with the respondent to have a discussion about the reported situation and/or to enter a No Contact Order, which is usually entered against both students.

After a report is made, and if the college does not conduct an investigation, it is possible that the respondent may never be contacted or made aware that a report was made. Monroe Community College tracks this information, however, to help identify patterns and to comply with state and federal laws.

What does the Title IX Grievance Policy cover (what is its jurisdiction)?

Before the Title IX Grievance Policy can apply, the sexual harassment, as defined by the new Title IX regulations, must have occurred 1) on any of Monroe Community College's campus premises; 2) off- campus, as part of an education program or activity within the U.S. that is funded, promoted, or sponsored by the college (for example, an out of town club or class event, internship, etc.); or 3) off campus, under circumstances where the college has control over its operations, for instance, its computer networks, digital platforms, etc., in cases of online harassment.

What type of conduct is "sexual harassment" under the new Title IX regulations?

Under the Title IX regulations, the definition of sexual harassment is:

- 1) Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the educational institution's education program or activity;
- 2) Sexual assault (rape and unwanted sexual contact);
- 3) "Quid pro quo" in situations where a Monroe Community College employee abuses their authority by conditioning a student's educational benefits on participation in unwelcome sexual conduct;
- 4) Dating violence;
- 5) Domestic violence; and
- 6) Stalking.

What if, after an investigation begins, it turns out that the allegations don't meet the definition of Title IX sexual harassment?

If, after the initial report of sexual harassment is made, the college determines that the alleged misconduct doesn't meet the Title IX definition of sexual harassment, then the college will dismiss the Title IX complaint and may refer it to the Office of Student Rights & Responsibilities, which will follow the Code of Student Conduct procedures. The parties have a right to appeal a dismissal from the Title IX Grievance process.

What is the process if the complainant requests an investigation?

If Monroe Community College conducts an investigation, you have the right to have an advisor with you at all meetings. You may ask the college to appoint an advisor or you may choose someone not affiliated with the college, like an attorney, to serve as your advisor.

Two investigators will be assigned and will talk to the complainant, take their statement, ask for witness names, and request any documentary evidence (including text and social media messages). The investigators will also talk to you and follow the same process. The investigators are neutral and will not make any findings. When the investigation is completed (it usually takes several weeks, and investigators may need to talk to you to ask some follow up questions), the investigators will write a report and may recommend a hearing

The standard of evidence for any Student Conduct or Title IX Grievance hearing is preponderance of the evidence (“more likely than not”). If a hearing is held, the hearing officer or hearing board will review the case and make a determination about whether it is more likely than not that the Title IX Policy, Student Code of Conduct, or both, was/were violated.

During the COVID-19 pandemic, all hearings will be virtual, held over Zoom. The hearing is closed, meaning that only the parties, advisors, the Title IX Coordinator, and the hearing officer or board are allowed to be present throughout the hearing. If a witness appears, they will do so only to give their statement and answer questions, then they will leave. A hearing officer or board will ask the complainant, you, and witnesses some questions.

The process is different, depending on whether the Title IX Grievance Policy or the Student Code of Conduct procedures are followed. If the Title IX Grievance Policy is followed, then advisors of the parties will be able to directly cross-examine the other party and witnesses. If the Student Code of Conduct process is followed, the hearing officer/board will ask all questions that one party has for the other party and witnesses.

Both parties are provided with a decision within thirty business days of the hearing and both have a right to appeal.

How is the Title IX process different than the Student Conduct process?

If the complainant makes a complaint which falls under Title IX (both the definition and jurisdiction), and requests an investigation, the college must follow the Title IX Grievance Policy procedures.

When the matter is investigated and a hearing is held under the **Title IX Grievance Policy**, the following will apply:

- Under the Title IX Grievance Policy, the complainant will need to file and sign a formal complaint.
- The Title IX Coordinator will send both parties a notice that sets forth all of the allegations made against the respondent, in detail, so that the respondent fully understands what is alleged, before being interviewed.
- Both the complainant and respondent will be able to review a draft of the investigative report and evidence (even evidence that the college will not rely upon when making a determination) before the report is finalized, and provide a rebuttal.
- Both parties are required to have an advisor at hearings, and the advisor will ask questions directly to (cross-examine) the other party and to witnesses.
- Failure to answer questions asked by an advisor during cross-examination means that **none** of the non-answering party’s statements (including statements to the investigators, the police, text messages, or conversations with witnesses about the alleged misconduct) can be considered by the hearing officer/board.

If, however, the misconduct does not fall within the definition or jurisdiction of sexual harassment under Title IX, then the college will follow the Student Code of Conduct procedures.

When the matter is investigated and/or a hearing is held under the **Code of Student Conduct**, the following will apply:

- A “formal” and signed complaint is not needed before the college begins an investigation.
- The respondent will be provided information about the allegations, but will not be provided with the complainant’s full written statement before being interviewed. The respondent will have a full opportunity to respond to all allegations, however, and will be provided with the complainant’s written statement following completion of the interview.
- The parties will not have an opportunity to review a draft of the investigative report or to submit a rebuttal before it is finalized.
- Both parties are encouraged to have an advisor present at all meetings and during a hearing, but are not required to have advisors at any step of the process.
- All questioning of the parties and witnesses is by the hearing officer/board. The parties have the right to ask questions, but all questions are submitted to the hearing officer to be asked.
- Both parties have the right not to participate in an investigation and/or hearing, but the failure to participate does not impact the evidence that the hearing officer/board may consider (the “admissibility” of the evidence). The decision not to participate may impact the outcome, however.

Can either the complainant or I choose whether the investigation follows the Title IX Grievance Policy or Student Code of Conduct procedures?

No. If the alleged misconduct falls within the definition and jurisdiction of sexual harassment under Title IX, and a complainant requests an investigation, the college must follow the procedures set forth in the Title IX Policy.

What if the alleged misconduct is covered under both the Title IX Grievance Policy and the Student Code of Conduct? Will there be two investigations and hearings?

The same conduct may fall within both the Title IX Grievance Policy and the Student Code of Conduct. If that occurs, the respondent may be charged with violations of both the Title IX Grievance Policy and the Student Code of Conduct, but only the Title IX Grievance Policy procedures will be followed. The college will conduct one investigation and one hearing.