



2016

2016 ANNUAL CAMPUS

Security and Fire Safety Report

LE MOYNE

Greatness meets Goodness

Director's Message

Welcome to Le Moyne College. I am sure you will find our campus to be a safe, welcoming and vibrant community. Le Moyne is a private institution founded in 1946. Our campus sits on more than 160 picturesque acres on the east side of Syracuse, N.Y. Approximately 3,500 full- and part-time undergraduate and graduate students are enrolled at this four-year, liberal arts college.

Campus Security strives every day to make the campus a safer environment for everyone to live, learn and work. The security department is an organization of dedicated men and women who are service driven and possess a strong desire and willingness to provide the Le Moyne community with the quality safety and security services that you expect, need and deserve. However, we cannot achieve that goal without your help. Safety and security on our campus is a collaborative effort and it takes the entire Le Moyne community working together. By collaborating with each other, reporting criminal activity, sharing thoughts and ideas, applying good judgment, and employing basic crime prevention measures, we can all be assured of the safest possible experience.

I encourage you to review the various services, programs, policies and resources outlined in this report, which is provided to you as part of Le Moyne College's commitment to safety and security on campus and which is in compliance with the Crime Awareness and Campus Security Act. Please help our Campus Security team make our campus community a safer place to learn, live, work and visit.

If you have any security concerns at Le Moyne College, please do not hesitate to contact me at (315) 445-4445 or security@lemoyne.edu



Mark J. Petterelli
Director of Security

Campus Security

The Le Moyne College Security Department is dedicated to providing top-level service to the campus community. Day in and day out campus security officers strive to make the campus a safer place. Campus Security is responsible for providing both emergency and non-emergency response on Le Moyne's campus. Campus Security is located in the basement level of Nelligan Hall. The office is staffed 24 hours a day, seven days a week by trained, full-time, professional security officers, all of whom are licensed by the state of New York. The staff consists of a director, three sergeants, 14 officers and one administrative assistant.

Campus Security also provides support services tailored to meet the needs of the Le Moyne community. Those services include, but are not limited to:

- providing campus security patrols
- testing all fire prevention equipment and alarms
- providing crime prevention and campus safety presentations
- inspecting buildings for safety compliance
- maintaining a lost and found department
- campus parking registration and enforcement
- assisting campus motorists with minor vehicle problems
- provide on-campus non-emergency medical transports

Reporting Criminal Incidents and Other Emergencies

We encourage every member of the Le Moyne community to promptly report all crimes on campus to Campus Security if the victim of such crime elects to or is unable to make a report. The Dispatch Center is staffed 24 hours a day by trained dispatchers. To report a crime or emergency to Campus Security, **dial 4444 from any campus phone**, or dial **(315) 445-4444**.

Campus Security's distinct telephone number, is labeled on most campus telephones and is included on all office publications and correspondence.

Students and employees may also report any of the criminal offenses listed in the "Reported Crime Statistics" section of this report to any of the College's vice presidents, to any dean or director reporting to a vice president, or to any residence hall area director with the assurance that any such offenses reported will be included in the subsequent Annual Security and Fire Safety Report, as well as our Clery statistics.

Free on-campus public telephones are located in the lobbies or public areas of most campus buildings.

Le Moyne College does not have a confidential reporting policy with the exception of reporting sexual misconduct, which can be done confidentially by contacting the Wellness Center for Health and Counseling or by calling the on-campus safe line during the academic year at (315) 251-SAFE.

Blue Light Emergency Phones

The College maintains Code Blue Emergency Telephones throughout the campus. These telephones connect directly to campus security. The campus community is encouraged to utilize these phones to report a criminal incident, a fire or any other type of emergency, or to request an escort from Campus Security.

These phones are located in the following areas:

- Parking Lot-C
- Panasci Family Chapel – Westside walkway
- Grewen Hall – Lower level near Den entrance
- W. Carroll Coyne Center for the Performing Arts – East side
- Henninger Athletic Center – Rear
- Le Moyne Plaza – Front
- Le Moyne Heights – Front
- Mitchell Hall – Front

Le Moyne Security and Local Law Enforcement

Le Moyne College Campus Security officers are all New York state-certified security officers. Although they do not possess arrest power, they do have the authority to issue parking tickets, conduct investigations, ask persons for identification, and determine whether individuals have lawful business on the Le Moyne campus. Criminal incidents are often referred to local law enforcement that have jurisdiction on the campus. Although no official memorandums of understanding are in place, Campus Security maintains a highly professional working relationship with the City of Syracuse Police Department, Town of DeWitt Police Department, Onondaga County Sheriff's Office, and New York State Police. Meetings are held both on a formal and informal basis and crime-related reports and statistics are routinely exchanged.

Campus Security maintains direct telephone communications with the Onondaga County 911 Center, which is responsible for dispatching all law enforcement, fire and emergency medical services responding to the Le Moyne College campus. Campus Security has two-way radio contact with all officers and with Physical Plant employees at the College. Additional assistance and support can be obtained quickly.

Informing the Campus Community of Criminal Activity

Ongoing efforts are made to advise members of the campus community about campus crime and crime-related problems. These efforts include:

- 1) **Annual Report:** A comprehensive annual report of crime-related information is compiled, published and widely distributed. This annual report is available on the Web to all interested parties.
- 2) **Campus Newspaper:** The weekly student newspaper, *The Dolphin*, publishes incidents that occurred the preceding week. If a serious or unusual incident has occurred, a special article is usually printed in the campus newspaper.
- 3) **Special Alerts:** If circumstances warrant, special crime alerts will be announced either selectively or throughout campus as outlined under the timely warnings guidelines and/or Heights Alert.
- 4) **Crime Log:** Campus Security also maintains a campus wide crime log which is located at the Security Office located on the lower level of Nelligan Hall. The crime log is open for public inspection Monday - Friday from 8:00 a.m. - 4:00 p.m.

EMERGENCY NOTIFICATIONS – HEIGHTS ALERT

The College, in conjunction with E2Campus, has implemented an Emergency Notification System in the event of a serious incident which poses an immediate threat to the Le Moyne community. The HEIGHTS ALERT is administered by Campus Security and is designed to provide Le Moyne students, faculty and staff with rapid notification in the event of an

emergency in progress. Serious incidents which may pose an immediate threat to the campus community can be criminal in nature; weather, health and personal safety situations, also may necessitate the need for an emergency notification.

When activated, HEIGHTS ALERT will deliver a text message to mobile phones or P.D.A.s, an email message, or both to all registered users, as well as telephone voice messaging campus telephones. The message will include a brief description of the emergency and instructions about what to do.

The Heights Alert System also has an emergency outdoor siren system which is located on top of Grewen Hall. This audible system has the ability to play both emergency sirens, and audible messages.

In September of 2015 the Heights Alert System was upgraded to include a Desktop Notification System. The desktop notification will temporarily display an emergency message to faculty, staff and instructor station computers.

After the initial HEIGHTS ALERT message, more detailed information will be provided if necessary through various means including, but not limited to, additional HEIGHTS ALERT messages, College email, telephone and local television.

In order to receive any HEIGHTS ALERT messages, you must be registered. **To register, log in to your account on Echo and click on the “create an account” link under the Heights Alert logo.**

This system is tested yearly.

TIMELY WARNINGS

To aid in the prevention of crime and keep the campus community better informed about safety and security concerns, the director of security will issue “Timely Warning Alerts,” which withhold the names of victims as confidential, when in the director’s judgment a situation arises, either on or off campus, that constitutes an ongoing or continuing threat to students and employees. Incidents in which a timely warning would be issued include, but are not limited to, all reported Clery Act crimes which are considered by the College to represent a serious or continuing threat to students or employees. The warning will be issued through the College email system to students, faculty and staff, as well as the campus newspaper, *The Dolphin*, and printed flyers if necessary.

Anyone with information that may warrant a timely warning should report those circumstances to Campus Security by phone (315)445-4444 or in person at the Campus Security office located in the basement of Nelligan Hall.

Crime/Safety Prevention

It is the philosophy of Le Moyne College to prevent crimes rather than react to them after they have occurred. One way to accomplish this is through the crime prevention program at the College. This program is designed to eliminate or minimize criminal opportunities whenever possible, and to encourage students and employees to be responsible for their safety as well as that of others. The following is a listing of the crime/safety prevention programs and projects at Le Moyne College:

- 1) **Shuttle Service:** A student escort service is offered from 6 p.m. to 2 a.m. seven days a week, during the academic year, for students traveling between Le Moyne College-owned properties.
- 2) **Crime Prevention Programs:** Campus Security provides crime prevention and campus safety awareness presentations to both students and College employees.

- 3) **Blue Light Emergency Telephones:** These emergency telephones are strategically located throughout the campus and are distinguished by the overhead blue light. Blue light telephones ring directly into the Campus Security dispatch center.
- 4) **Security Surveys:** Comprehensive inspections of exterior lighting, exterior doors and grounds are conducted by the director of Campus Security each year.
- 5) **Operation Identification:** The engraving of serial numbers or owner-recognized numbers on items is available through Campus Security.
- 6) **Video Monitoring:** Campus Security monitors and records residence hall entrances, student parking lots and other campus facilities by means of closed-circuit television cameras.
- 7) **Sexual Assault, Education and Prevention:** In cooperation with Student Development, the Office of Campus Life and Leadership and the Wellness Center for Health and Counseling, a multitude of programs and presentations are made available each year to the members of the campus community to promote healthy behavior and their awareness of sexual assault, domestic violence, dating violence and stalking.
- 8) **Operation 'lock-out':** A program to better educate students on the importance of locking their room. Resident advisors and area directors (RAs/ADs) lock the doors of students who have left their room doors open and hang a flier on the doorknob about keeping their room secure. This program is administered during the fall semester by campus life and leadership staff.
- 9) **Enhanced Telephone System:** All calls received by Campus Security from a College phone, Emergency Blue Light Telephone and Elevator Emergency phones are immediately identified in security by extension and/or location.

HATE CRIMES

What is a hate crime? Hate crime, also known as bias crime, is criminal activity motivated, in whole or in part, by the perpetrator's bias against another individual or group based on a belief or perception, regardless if that belief or perception is correct, based on another's race, gender, religion, national origin, sexual orientation, gender identity, ethnicity or disability.

The College, in compliance with current regulations, reports as hate crimes any occurrences of criminal homicide, sex offenses, robbery, aggravated assault, simple assault, burglary, larceny, motor vehicle theft, arson, intimidation and destruction/damage/vandalism of property and any other crime involving bodily injury that manifests evidence that the victim was intentionally selected because of the perpetrator's bias (race, gender, religion, national origin, sexual orientation, gender identity, ethnicity or disability) that have been reported to local law enforcement or a Campus Security authority.

Examples of hate crimes include murder, manslaughter, forcible and non-forcible sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, arson, simple assault, larceny, intimidation, and destruction/vandalism of property in which the victim or victims were intentionally selected because of an actual or perceived category outlined above.

Not only are hate crimes a violation of Le Moyne's community standards, but they are also prohibited under the New York State Penal Law, Article 485. Penalties for a person convicted of a hate crime are serious and range from fines to lengthy prison sentences.

The Clery Act only reports the six categories of bias outlined below:

Race. A preformed negative attitude toward a group of persons who possess common physical characteristics (i.e., 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 (i.e., Asian, blacks, whites).

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

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

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

Gender Identity. A preformed negative opinion or attitude toward a group of persons based on their innate, deeply felt psychological identification as a man, women or some other gender, which may or may not correspond to the sex assigned to them at birth.

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

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

Le Moyne College Hate Crime Statistics:

2015: No hate crimes were reported that met Clery Act requirements

2014: No hate crimes were reported that met Clery Act requirements

2013: No hate crimes were reported that met Clery Act requirements

Reported Crime Statistics

Le Moyne College believes an informed community is a safety-conscious community.

The following statistics for 2013, 2014 and 2015 are based on specific crimes that have been reported to Campus Security, other College officials and local law enforcement.

If you have any questions regarding Le Moyne’s crime statistics, contact Campus Security at (315) 445-4444 (from on campus, dial 4444); fax: (315) 445-6021.

Campus Crime Statistics

TYPE OF OFFENSE		ON CAMPUS	RESIDENTIAL FACILITY	NON-CAMPUS	PUBLIC PROPERTY
Criminal Homicide					
Murder and	2015	0	0	0	0
Nonnegligent Manslaughter	2014	0	0	0	0
	2013	0	0	0	0
Negligent Manslaughter	2015	0	0	0	0
	2014	0	0	0	0
	2013	0	0	0	0
Sex Offenses					
Rape	2015	5	5	0	0
	2014	2	2	0	0
	2013	0	0	0	0
Forcible Fondling	2015	5	2	0	0
	2014	2	2	0	0
	2013	0	0	0	0

Campus Crime Statistics (continued)

Incest	2015	0	0	0	0
	2014	0	0	0	0
	2013	0	0	0	0
Statutory Rape	2015	0	0	0	0
	2014	0	0	0	0
	2013	0	0	0	0
Domestic Violence					
	2015	0	0	0	0
	2014	0	0	0	0
	2013	0	0	0	0
Dating Violence					
	2015	1	1	0	0
	2014	2	2	0	0
	2013	2	1	0	0
Stalking					
	2015	2	2	0	0
	2014	2	1	0	0
	2013	0	0	0	0
Robbery					
	2015	0	0	0	1
	2014	0	0	0	0
	2013	0	0	0	1
Aggravated Assault					
	2015	2	1	0	0
	2014	0	0	0	0
	2013	2	0	0	0
Burglary					
	2015	6	6	0	0
	2014	5	4	0	0
	2013	7	6	0	0
Motor Vehicle Theft					
	2015	2	0	0	0
	2014	2	0	0	0
	2013	0	0	0	0
Arson					
	2015	0	0	0	0
	2014	0	0	0	0
	2013	0	0	0	0
OTHER OFFENSES – ARREST		ON CAMPUS	RESIDENTIAL FACILITY	NON-CAMPUS	PUBLIC PROPERTY
Liquor Law Violations					
	2015	0	0	0	0
	2014	0	0	0	0
	2013	0	0	0	0
Drug Violations					
	2015	1	0	0	0
	2014	3	3	0	0
	2013	0	0	0	0

Campus Crime Statistics (continued)

Illegal Weapons Possession					
	2015	1	0	0	0
	2014	0	0	0	0
	2013	0	0	0	0
OTHER OFFENSES – JUDICIAL	ON CAMPUS	RESIDENTIAL FACILITY	NON-CAMPUS	PUBLIC PROPERTY	
Liquor Law Violations					
	2015	140	137	0	0
	2014	157	157	0	0
	2013	186	186	0	0
Drug Violations					
	2015	23	22	0	0
	2014	14	14	0	0
	2013	19	19	0	0
Illegal Weapons Possession					
	2015	2	2	0	0
	2014	2	2	0	0
	2013	2	2	0	0

Definitions for Clery Act Reported Statistics

The following definitions are used to report crimes listed in accordance with the Federal Bureau of Investigation Uniform Crime Reporting Guidelines.

- **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.
- **Robbery:** The taking or attempting to take anything of value from the care, custody or control of another person or persons by force or threat of force or violence and/or 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 of a structure 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.
- **Illegal Weapons Possession Violations:** The violations of laws and ordinances dealing with weapons offenses.
- **Drug Abuse Violations:** Violations of federal, state and local laws relating to the unlawful possession, sale, use, growing, manufacturing and making of narcotic drugs or marijuana.

Liquor Law Violations: The violations of state laws or local ordinances prohibiting the manufacture, sale, transporting, furnishing, possessing of intoxicating liquor, maintaining unlawful drinking places, furnishing liquor to a minor; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; and all attempts to commit any of the aforementioned.

Definitions for Clery Act Reported Sex Offenses Statistics

- **Sex Offenses – Forcible:** Any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent.
- **Forcible Rape:** The carnal knowledge of a person, forcibly and/or against that person's will, or not forcibly or against the person's will where the victim is incapable of giving consent because his/her temporary or permanent mental or physical incapacity (or because of his/her youth).
- **Forcible Sodomy:** Oral or anal sexual intercourse with another person, forcibly and/or against that person's will, or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
- **Sexual Assault With An Object:** To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will, or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
- **Forcible Fondling:** The touching of private body parts of another person for the purpose sexual gratification, forcibly and/or against the person's will, or, not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental incapacity.
- **Sex Offenses – Nonforcible:** Unlawful, nonforcible sexual intercourse includes the following:
 - **Incest:** Nonforcible sexual intercourse between persons related to each other within the degrees wherein marriage is prohibited.
 - **Statutory Rape:** Nonforcible sexual intercourse with a person who is under the statutory age of consent

LOCATION DEFINITIONS

CAMPUS: building or property owned or controlled by the institution within the same reasonably contiguous geographic area of the institution, and used in direct support of the educational purposes, such as academic buildings, parking areas and other nonresidential property.

PUBLIC PROPERTY: public property that is near the institution and is adjacent to a facility owned or controlled by the institution, such as sidewalks, streets and public parking facilities.

NON-CAMPUS: any building or property owned or controlled by a student organization or by the institution, other than a branch campus, that is not within the same reasonably contiguous geographic area

Drug and Alcohol Policy

Le Moyne College complies with federal, state and local laws, including those which regulate the possession, use and sale of alcoholic beverages and controlled substances. The drug and alcohol policies of Le Moyne College state that on the College's premises or at College-sponsored activities the following are prohibited: (1) distribution, possession or use of any illegal drug or controlled substance; (2) providing alcoholic beverages to individuals under 21 years of age or possession of alcoholic beverages by individuals under 21 years of age; and (3) illegal possession of an open container of an alcoholic beverage, public intoxication,

driving while intoxicated and the consumption of alcohol in any public area on campus (e.g., lounges, corridors, outdoors or classrooms).

The Student Handbook details offenses and discipline for students, including the sanctions under College procedures such as fines, probation, suspension or dismissal from the College for such acts.

Firearms, Weapons, Fireworks or Chemicals

Firearms and/or weapons (air guns, pistols, etc.) are not permitted on campus at any time. Having any of these items is a violation of New York state penal law as they pertain to colleges. The possession or use of explosives of any kind, including fireworks, firecrackers or dangerous chemicals, is prohibited. Violators of these policies are subject to arrest and College disciplinary action.

Sexual Assault Education and Prevention

Le Moyne College is committed to the prevention and reduction of sexual assaults, to include domestic violence, dating violence and stalking. The College has several innovative programs and campaigns in place.

Programs such as “Relationships 101,” “Think About It,” “You Are Not Alone Week,” “Enough is Enough, ‘See Something? Say Something!’” and our Public Service Announcement (PSA) titled “No More” help bring better awareness to this problem. As a campus community we are working to promote a culture of bystander intervention where we care for each other and stand up with a no tolerance policy for violence of any kind.

See Something? Say Something.



At Le Moyne College, we step in to support and protect each other. Any act of violence undermines the dignity of individuals in our community and the principles of equality and respect that are essential at Le Moyne. If you are looking for resources to support survivors of sexual misconduct, visit:

www.lemoyne.edu/assaultresources

The Violence Against Women Reauthorization Act signed into law on March 7, 2013, imposes new obligations on colleges and universities under the Campus Sexual Violence Act “SaVE Act,” to include programming, policies and definitions related to: sexual assault, domestic violence, dating violence and stalking.

Some key terms and crimes covered under the Violence Against Women’s Reauthorization Act are outlined below:

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. The New York State Penal Law has an entire article, Article 130, devoted to sex offenses which are prohibited under New York State Law. Outlined below are many of the the sex offenses prohibited by New York State Law, in addition to our definition of Affirmative Consent as outlined in the 2015 “Enough is Enough” Legislation.

Affirmative Consent: Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

Consent to any sexual act or prior consensual 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 it is the result of any coercion, intimidation, force or threat of harm. When consent is withdrawn or can no longer be given, sexual activity must stop.

Consent 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 an 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.

In considering whether an individual is incapacitated due to drug or alcohol use, the College will look at a number of factors, including but not limited to the type/amount of alcohol and/or drugs used, as well as such outward signs as slurred or incoherent speech, impaired motor skills (e.g., walking, texting), vomiting, loss of consciousness, etc.

Incapacitation may also result from a physical or mental disability. In addition, in New York, a minor (someone under the age of 17) cannot consent to sexual activity. This means that sexual contact with a person less than 17 is a crime as well as a violation of this Policy even if the minor wanted to engage in the sexual activity. If any person has any information that a minor has been subjected to sexual activity, it should be reported to Campus Security and/or the policy immediately.

Sexual misconduct: A person is guilty of sexual misconduct when (1) he or she engages in sexual intercourse with another person without such person's consent; or (2) 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: A person is guilty of rape in the third degree when (1) he or she engages in sexual intercourse with another person who is incapable of consent by reason of some factor other than being less than 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: A person is guilty of rape in the second degree when (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 four years older than the victim at the time of the act.

Rape in the first degree: A person is guilty of rape in the first degree when he or she engages in sexual intercourse with another person (1) by forcible compulsion; or (2) who is incapable of consent by reason of being physically helpless; or (3) who is less than 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: A person is guilty of criminal sexual act in the third degree when (1) he or she engages in oral or anal sexual conduct 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: A person is guilty of criminal sexual act in the second degree when (1) being 18 years old or more, he or she engages in oral or anal sexual conduct with another person 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 four years older than the victim at the time of the act.

Criminal sexual act in the first degree: A person is guilty of criminal sexual act in the first degree when he or she engages in oral sexual conduct or anal sexual conduct with another person (1) by forcible compulsion; or (2) who is incapable of consent by reason of being physically helpless; or (3) who is less than 11 years old; or (4) who is less than 13 years old and the actor is 18 years old or more.

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

Persistent sexual abuse: A person is guilty of persistent sexual abuse when he or she commits a crime of forcible touching, sexual abuse in the second or third degree, and, 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 forcible touching, sexual abuse in the second or third degree or any offense defined in this article, of which the commission or attempted commissions thereof is a felony.

Sexual abuse in the third degree: A person is guilty of sexual abuse in the third degree when he or she subjects another person to sexual contact without the latter's consent. For any prosecution under this section, it is an affirmative defense that (a) such other person's lack of consent was due solely to incapacity to consent by reason of being less than 17 years old; and (b) such other person was more than 14 years old and (3) the defendant was less than five years older than such other person.

Sexual abuse in the second degree: A person is guilty of sexual abuse in the second degree when he or she subjects another person to sexual contact and when such other person is (1) incapable of consent by reason of some factor other than being less than 17 years old; or (2) less than 14 years old.

Sexual abuse in the first degree: A person is guilty of sexual abuse in the first degree when he or she subjects another person to sexual contact (1) by forcible compulsion; or (2) when the other person is incapable of consent by reason of being physically helpless; or (3) when the other person is less than 11 years old; or (4) when the other person is less than 13 years old and the actor is 21 years old or older.

Aggravated sexual abuse in the fourth degree: (1) A person is guilty of aggravated sexual

abuse in the fourth degree when (a) inserts a foreign object in the vagina, urethra, penis or rectum or anus 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 (b) he or she inserts a finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person and such person is incapable of consent by reason of some factor other than being less than 17 years old. (2) Conduct performed for a valid medical purpose does not violate the provisions of this section.

Aggravated sexual abuse in the third degree: (1) A person is guilty of aggravated sexual abuse in the third degree when he or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person:(a) by forcible compulsion; or (b) when the other person is incapable of consent by reason of being physically helpless; or (c) when the other person is less than eleven years old. (2) when he or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person and such person is incapable of consent by reason of being mentally disabled or mentally incapacitated. (3) Conduct performed for a valid medical purpose does not violate the provisions of this section.

Aggravated sexual abuse in the second degree: (1) A person is guilty of aggravated sexual abuse in the second degree when he or she inserts a finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person: (a) by forcible compulsion; or (b) When the other person is incapable of consent by reason of being physically helpless; or (c) When the other person is less than eleven years old. (2) Conduct performed for a valid medical purpose does not violate the provisions of this section.

Aggravated sexual abuse in the first degree: (1) A person is guilty of aggravated sexual abuse in the first degree when he or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person: (a) by forcible compulsion; or (b) when the other person is incapable of consent by reason of being physically helpless; or (c) when the other person is less than eleven years old. (2) Conduct performed for a valid medical purpose does not violate the provisions of this section.

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.

Course of sexual conduct against a child in the second degree: A person is guilty of course of sexual conduct against a child in the second degree when, (1) over a period of time not less than three months in duration: (a) he or she engages in two or more acts of sexual conduct with a child less than eleven years old; or (b) he or she, being eighteen years old or more, engages in two or more acts of sexual conduct with a child less than thirteen years old. (2). A person may not be subsequently prosecuted for any other sexual offense involving the same victim unless the other charged offense occurred outside the time period charged under this section.

Course of sexual conduct against a child in the first degree: A person is guilty of course of sexual conduct against a child in the first degree when, (1) over a period of time not less than three months in duration: (a) he or she engages in two or more acts of sexual

conduct, which includes at least one act of sexual intercourse, oral sexual conduct, anal sexual conduct or aggravated sexual contact, with a child less than eleven years old; or (b) he or she, being eighteen years old or more, engages in two or more acts of sexual conduct, which include at least one act of sexual intercourse, oral sexual conduct, anal sexual conduct or aggravated sexual contact, with a child less than thirteen years old. (2) A person may not be subsequently prosecuted for any other sexual offense involving the same victim unless the other charged offense occurred outside the time period charged under this section.

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.

DOMESTIC VIOLENCE, DATING VIOLENCE and STALKING

Domestic Violence: means a felony or misdemeanor crime of violence committed by:

- a current or former spouse or intimate partner of the victim,
- a person with whom the victim shares a child in common,
- a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,
- a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant money (under VAWA), or
- any other person against an adult or youth victim who is protected from that person's act under the domestic or family violence laws of the jurisdiction."

New York State takes domestic violence very seriously. The Family Court Act outlines numerous "family offenses" covered under "domestic violence":

- disorderly conduct
- harassment (1st and 2nd degree)
- aggravated harassment 2nd degree
- assault (2nd, 3rd degree and attempted)
- criminal mischief
- sexual abuse (2nd and 3rd degree)
- strangulation
- menacing (2nd and 3rd degree)
- reckless endangerment
- stalking

- sexual misconduct
- forcible touching
- criminal obstruction of breathing or circulation
- identity theft (1st, 2nd or 3rd degree)
- coercion (2nd degree)
- grand larceny (3rd and 4th degree)

Dating Violence: means “violence committed by a person:

- who is or has been in a social relationship of romantic or intimate nature with the victim; and
- where the existence of such relationship shall be determined based on a consideration of the following factors:
 - the length of the relationship;
 - the type of relationship; and
 - the frequency of interaction between the persons involved in the relationship.”

Although New York state does not specifically define “dating violence”, using many of the perimeters outlined above often times the conduct may fall under one the “family offenses” and may be adjudicated in either criminal court or in some cases family court.

Stalking: means “engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- fear for his or her safety or the safety of others; or
- suffer substantial emotional distress.”

Note: Stalking is specifically addressed in Article 120 of the New York State Penal Law

Stalking in the fourth degree: A person is guilty of stalking in the fourth degree when he or she intentionally, and for no legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct: (1) is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person’s immediate family or a third party with whom such person acquainted; or (2) causes material harm to the mental or emotional health of such person, where such conduct consists of following, telephoning or initiating communication or contact with such person, a member of such person’s immediate family or a third party with whom such person is acquainted, and the actor was previously clearly informed to cease that conduct; or (3) is likely to cause such person to reasonably fear that his or her employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person’s place of employment or business, and the actor was previously clearly informed to cease that conduct.

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

Stalking in the third degree: A person is guilty of stalking in the third degree when he or she: (1) Commits the crime of stalking in the fourth degree against three or more persons, in three or more separate transactions, for which the actor has not been previously convicted; or (2) Commits the crime of stalking in the fourth degree against any person, and has previously been convicted, within the preceding ten years of a specified predicate crime, as defined in subdivision five of section 120.40 of this article, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or (3) With intent to harass, annoy or alarm a specific person, intentionally engages

in a course of conduct directed at such person which is likely to cause such person to reasonably fear physical injury or serious physical injury, the commission of a sex offense against, or the kidnapping, unlawful imprisonment or death of such person or a member of such person's immediate family; or (4) Commits the crime of stalking in the fourth degree and has previously been convicted within the preceding ten years of stalking in the fourth degree.

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

Stalking in the first degree: A person is guilty of stalking in the first degree when he or she commits the crime of stalking in the third degree or stalking in the second degree and, in the course and furtherance thereof, he or she: (1) intentionally or recklessly causes physical injury to the victim of such crime; or (2) commits a class A misdemeanor defined in article one hundred thirty of the NYS Penal Law (NYSPL), or a class E felony defined in section 130.25, 130.40 or 130.85 of the NYSPL, or a class D felony defined in section 130.30 or 130.45 of the NYSPL.

If You have Experienced Sexual Violence, Relationship Violence, or Stalking

Immediate Steps

- Go to a safe place
- Call someone you trust
- Preserve evidence – After sexual violence, do not shower until you have considered whether to have a no-cost forensic sexual assault examination at the hospital, and save the clothes you were wearing (unwashed) in a paper or cloth bag. Take photos of any damage or injury and keep communication records.

Within 24 Hours

- Seek out support – You may want to turn to a confidential counselor for support and information. They will talk with you about your options for additional services and reporting.
- After unwanted physical contact, get medical attention—A medical provider can check for and treat physical injury, sexually transmitted infections, and pregnancy. You do not need to file a formal report to receive medical care.

At Any Time

- Consider making a formal report—You are encouraged to report what happened to both Le Moyne Security and to local law enforcement officials. You decide how much you would like to participate in the process.
- Le Moyne can help—There are many on-campus resources available to you to help support you. You do not need to file a formal report to receive help.

If you have experienced sexual violence, relationship violence, or stalking, you have the right to make a report to campus security, local law enforcement, and/or state police or choose not to report; to report the incident to your institution; to be protected by the institution from retaliation for reporting an incident; and to receive assistance and resources from your institution.

Commitment to a Safe Community

Le Moyne College works to promote an environment and collective attitude that encourages students, faculty, staff and administrators to serve others, participate in the life of the College, and act as responsible members of the community. Acts of sexual harassment or other sexual misconduct, including sexual assault, domestic violence, dating violence or stalking, undermine the dignity of individuals and the principles of equality and respect for others and are serious violations of our community standards. These acts do not just harm the individual; they harm the College community as a whole.

Students' Bill of Rights

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 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 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
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution.

Confidential Support Options

Confidentiality—Confidentiality may be offered by an individual who is not required by law to report known incidents of sexual assault or other crimes to institutional officials in a manner consistent with state and federal law. Licensed mental health counselors, medical providers and pastoral counselors are examples of institutional employees who may offer confidentiality.

Le Moyne strongly encourages our students to receive the confidential support that is available to them by being part of our community. If you would like to confidentially discuss an incident of sexual assault, relationship violence, or stalking, you can do so by contacting our Wellness Center for Health and Counseling. You can also receive confidential support by contacting one of the community based resources listed below.

On-campus Support Resources:

Wellness Center (counseling): (315) 445-4195

Wellness Center (health): (315) 445-4440

Seton Hall, 8:30 a.m.-4:30 p.m. Monday-Friday during the academic year (no charge).

Le Moyne College on-campus hotline during the academic year: (315) 251-SAFE (no charge) Available 24 hours a day, everyday

Community Support Resources:

Vera House can provide a sexual assault advocate who can go to the hospital and/or the police department with you, their services are free of charge.

Vera House Hotline: (315) 468-3260

NYS Domestic Sexual Violence Hotline: 1-800-942-6906

National Sexual Assault Hotline: 1-800-656-4673

National Domestic Violence Hotline: 1-800-799-7233

Non-Confidential Report Options

Privacy—Privacy may be offered by an individual when such

individual is unable to offer confidentiality under the law but shall still not disclose information learned from a reporting individual or bystander to a crime or incident more than necessary to comply with this policy and applicable laws, including informing appropriate College officials.

Le Moyne strongly encourages survivors and witnesses of sexual misconduct to report these incidents to the Title IX coordinator or a trusted Le Moyne staff member who will then be able to contact the Title IX coordinator. Outside of the confidential resources previously listed, disclosing any information regarding sexual assault, relationship violence, or stalking will be kept private, but not confidential, and will result in a Title IX report. Students can file a report directly with the Title IX coordinator, Le Moyne Security, and/or outside law enforcement agencies listed below.

On-campus Reporting Options

Title IX Coordinator: (315)445-4278

On campus, 8:30 a.m.-4:30 p.m. Monday-Friday during the academic year (no charge).

Le Moyne College Security: (315)445-4444

Basement of Nelligan Hall, Available 24 hours a day, everyday

Community Law Enforcement Reporting Options:

Syracuse Police: (315)442-5111

DeWitt Police: (315)425-2333

Onondaga County Sheriffs: (315)435-2111

Syracuse Police Abused Persons Unit: (351)435-3016

Onondaga Sheriff Abused Persons Unit: (315)435-3092

NYS State Police Sexual Assault Hotline: 1-844-845-7269

2016 – 2017 Le Moyne College Policy on Sexual Harassment and Sexual Misconduct for Students

(Effective 8/1/2016)

I. Introduction

As an institution of higher education with a longstanding Jesuit and Catholic tradition, Le Moyne College works to promote an environment and collective attitude that encourages students, faculty, staff and administrators to serve others, participate in the life of the College, and act as responsible members of the community. Acts of sexual harassment or other sexual misconduct, including sexual assault, domestic violence, dating violence or stalking, undermine the dignity of individuals and the principles of equality and respect for others and are serious violations of our community standards. These acts do not just harm the individual; they harm the College community as a whole. As used in this Policy, “Sexual Misconduct” is a term used to refer to any form of sexual or gender-based harassment, non-consensual sexual activity, dating violence or domestic violence, or stalking. Sexual Misconduct may occur between members of the community regardless of their gender identity or sexual orientation. Le Moyne College does not condone or tolerate Sexual Misconduct.

The College aims to ensure that all members of the Le Moyne community can learn, live and work free from being subjected to Sexual Misconduct. All students are encouraged to read this Policy and develop a clear understanding of what is and is not acceptable sexual behavior.

This Policy will outline clear procedures for reporting Sexual Misconduct which involves a student, either as a reporting party or a respondent. (The College’s Faculty and Staff Policy on Sexual Harassment and Sexual Misconduct covers Sexual Misconduct cases that do not involve students.) In the event of any conflict between the standards and procedures of this Policy and those of the general Community Standards and Conduct Procedures, the standards and procedures of this Policy will govern any case to which this Policy applies. This Policy outlines various categories of Sexual Misconduct to include: sexual harassment, non-consensual sexual activity, domestic violence, dating violence and stalking.

Le Moyne College has a host of security, psychological, medical, administrative and student conduct services that are immediately available to students reporting Sexual Misconduct. Through these policies and procedures, Le Moyne College looks to achieve several goals:

- A campus climate which encourages prompt reporting of Sexual Misconduct.
- To provide prompt professional and support services to the reporting party and the responding student.
- To provide a comprehensive system that informs the reporting party and respondent of the rights and services available to them.
- To cultivate a campus community where instances of Sexual Misconduct are avoided through an ongoing campaign of education, training and mutual respect for each other.

This Policy protects the rights of both the reporting and responding parties. The responding student shall be free from sanction, pending the conclusion of a case. However, where the nature of the case indicates that there is a potential danger to the immediate well-being of the College community or specific persons within the College community, appropriate interim measures (up to and including temporary suspension from the College and/or its residence halls) may be taken by the Title IX Coordinator or designee. In addition, accommodations such as a change in academic, living, transportation and/or working situations may be made to protect either or both of the parties and prevent retaliation. Providing accommodations should not be viewed as prejudging responsibility for any alleged violation.

The protections in this Policy apply regardless of race, color, national origin, religion, creed, age, disability, sex, gender, identity or expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status or criminal convictions.

II. Scope of Policy

This Policy defines criteria and procedures for responding to queries and complaints regarding Sexual Misconduct, and applies to all students of the College. (For purposes of this Policy, a covered student includes a deposited student, or the equivalent, and other student categories as determined by the Title IX Coordinator.) Under this Policy an individual can file reports on behalf of themselves or others, or the College may choose (and in some cases may be obligated) to pursue a matter it becomes aware of even in the absence of a reporting party. This Policy covers activity that has taken place either on the Le Moyne campus or at College-sponsored events or programs off-campus. The criteria and report procedures outlined below may also apply to off-campus situations where one member's behavior interferes with another's well-being and full participation as a member of the College community.

A. Reports Against Students

This Policy applies in those instances when a student is reported to have engaged in Sexual Misconduct against any other person (regardless of whether the other person is a Le Moyne College Student).

B. Reports Against Faculty or Staff By a Student

If a student wishes to bring forward a report of Sexual Misconduct against a faculty or staff member, this Policy also applies, however resolution procedures can be different than those used in student-on-student cases.

C. Reports By or Against Visitors or Non-Community Members

If a student wishes to bring forward a report of Sexual Misconduct against a visitor or other non-community member (e.g., an alumnus or alumna, a prospective student, a guest of a student, a member of another College's team, a local resident), the report should be made to Campus Security at 315-445-4444. Campus Security will investigate reports against such persons, and the College will determine the appropriate action to be taken, which may include contacting law enforcement.

If a visitor wishes to report a violation of this Policy by a College student related to a College program, event or other College activity, or a campus incident, they may do so by reporting to the Title IX Coordinator. The Title IX Coordinator will appoint one or more investigators, if appropriate, and follow the procedures set forth in this Policy. If the alleged respondent is not a student, the Title IX Coordinator will determine an appropriate manner to proceed.

D. On Campus and Off-Campus Behavior

This Policy applies to conduct that occurs on any part of Le Moyne's campus or property. It also applies when students travel off-campus as part of a College activity, team, organization or event. Additionally, Le Moyne has the discretion to discipline student behavior that occurs elsewhere off-campus, and/or during a time when the College is not in session. In making these determinations, the Title IX Coordinator considers whether the behavior impacts the campus environment (as would be the case, for example, if one student sexually assaults another student in an off-campus apartment or overseas during a semester abroad, or if a student sends another student lewd and/or threatening sexual emails while at home during the semester break). In understanding this aspect of Le Moyne's expectations for student behavior, it may be helpful to think of student status as "portable" and therefore operative even when students are not on Le Moyne's campus or property.

E. Timeframe for Making a Complaint

While there is no time limit for bringing forward a report, the passage of time may make an incident difficult or even impossible to investigate fairly or fully and to adjudicate. Therefore, persons who believe that they have been a victim of Sexual Misconduct are encouraged to make a report as soon as possible after an incident has occurred. Although not an ideal situation given the passage of time, a former student may make a report against a current student (or employee). A report against a former student or employee will be treated as a report against a non-community member and is not subject to adjudication pursuant to this Policy. Nevertheless, Le Moyne's officials will help a reporting party who reports a complaint against a former student or employee share the allegations with the appropriate off-campus authorities if desired, and the College will consider other appropriate responsive measures, such as banning the former student from returning to campus and providing the reporting party with access to campus counseling, academic adjustments, and other support.

III. Definitions of Sexual Harassment, Non-Consensual Sexual Activity, Domestic Violence, Dating Violence and Stalking

Le Moyne College has defined several categories of Sexual Misconduct below, for which student sanctions may be imposed. Sexual Misconduct of any nature is a serious violation of our student code of conduct and Le Moyne reserves the right to impose any sanctions outlined in the Community Standards and Conduct Procedures, including suspension or expulsion from the College. Also, students have the right to contact law enforcement for Sexual Misconduct at any level defined below.

For the purposes of this Policy, Sexual Misconduct includes:

A. Sexual Harassment

Federal and state laws prohibit sexual harassment. These laws include Title VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972 and the New York State Human Rights Law. This Policy prohibits conduct that would violate these laws. However, as a supportive and collegial community, Le Moyne also prohibits student behavior that sexually demeans or humiliates other community members as described below, even if the conduct does not violate the law.

Sexual harassment refers to unwelcome sexual or gender-based conduct. When sexual harassment becomes so severe or pervasive as to interfere with an individual's ability to work, learn or participate in the College's programs, it is called a sexual or gender-based "hostile environment." Harassing conduct can occur in various forms, including physical, verbal, written, visual or electronic (e.g., emails, text messages, personal blogs, social networking site posts or other online activity) conduct that relates to sex, gender or sexual identity.

A determination as to whether a hostile environment has been created depends on the totality of the circumstances, such as the severity of a particular incident, the context in which it occurred, whether the conduct was repeated, whether the conduct was verbal or physical, and whether it was threatening or merely annoying. Le Moyne reserves the right to discipline offensive conduct that is inconsistent with community standards even if it does not rise to the level of a hostile environment as defined by applicable law. Further, the College encourages students and others to report incidents that concern them even if the incidents are not particularly egregious, as early reporting assists the College to address and correct situations before they become so severe or pervasive as to create a hostile environment..

Le Moyne also prohibits “quid pro quo” harassment. “Quid pro quo” (or “this for that”) harassment occurs when a person in a position of authority or control links the receipt of some benefit (such as a grade, or the ability to join a group or participate in a program) to another’s submission to unwelcome sexual advances or sexual conduct or requires the other to perform or submit to demeaning or degrading sex or sexually-charged acts. “Quid pro quo” harassment can be expressly stated, but it also can be implied by words, actions or the surrounding circumstances.

B. Non-Consensual Sexual Conduct

Any sexual activity without mutual consent, including sexual assault, is prohibited. Violations of this Policy include but are not limited to the following:

Category 1 Non-Consensual Sexual Conduct

Category 1 Non-Consensual Sexual Conduct includes any sexual penetration, regardless of how slight, with any type of body part or object (including but not limited to sexual intercourse) by one person upon another person without consent. Sexual penetration includes, but is not limited to, vaginal or anal penetration by a penis, finger, tongue or object, as well as oral copulation by mouth to genital contact or genital to mouth contact. Additionally, conduct that would otherwise constitute Category 2 or 3 Non-Consensual Sexual Conduct which involves any level of physical violence will be considered Category 1 Non-Consensual Sexual Conduct.

Category 2 Non-Consensual Sexual Conduct

Category 2 Non-Consensual Sexual Conduct is any intentional sexual touching, however slight, with any type of body part or object by one person upon another without consent, and which does not rise to the level of Category 1. Sexual touching includes any contact, directly or through clothing, with the genitals, breasts, groin, mouth or buttocks of another individual, or any other bodily contact in a sexual manner. Sexual touching also includes causing another to touch one’s intimate bodily areas, or disrobing another, without consent.

Category 3 Non-Consensual Sexual Conduct (Sexual Exploitation)

Category 3 Sexual Exploitation occurs when a person takes non-consensual sexual advantage of another for his/her own benefit or to benefit someone other than the individual being exploited, and that behavior does not otherwise constitute sexual harassment or Category 1 or Category 2 Non-Consensual Sexual Conduct as defined above. Examples of sexual exploitation include, but are not limited to:

- Sexual voyeurism (without consent or exceeding the bounds of consent watching another engage in private or intimate activities such as, but not limited to, undressing, showering/bathing, using the bathroom or engaging in sexual activity)
- Non-consensual video, photography or audio taping of private or intimate activities such as, but not limited to, undressing, showering/bathing, using the bathroom or engaging in sexual activity)

- Without consent of all involved or exceeding the bounds of such consent, allowing others to watch private or intimate activities (such as, but not limited to, undressing, showering/bathing, using the bathroom or engaging in consensual sexual activity) by means such as, but not limited to, hiding in a closet, using a webcam, distributing video, etc.
- Engaging in sexual activity with another while knowingly being infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) without informing the other person of the infection
- Acts of incest
- Prostitution or promoting prostitution
- Administering to another person without their knowledge or consent alcohol or drugs (to include “date rape” drugs) for the purpose of engaging or attempting to engage in sexual activity or exploitation.

C. Domestic Violence, Dating Violence and Stalking

Domestic violence means a felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the reporting party, a person with whom the reporting party shares a child in common, a person who is cohabitating with or has cohabitated with the reporting party as a spouse or intimate partner, a person similarly situated to a spouse of the reporting party under the domestic or family violence laws of the jurisdiction in which the act occurs, or any other person against an adult or youth reporting party who is protected from that person’s acts under the domestic or family violence laws of that jurisdiction. Violence may include physical assault (hitting, pushing, kicking, shoving, etc.) and/or sexual abuse (unwanted or forced sexual activity).

Dating violence means abuse committed by a person who is or has been in a social relationship of a romantic or intimate nature with the reporting party. The existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship. Forms of abuse constituting dating violence can be physical, (including sexual). Dating violence does not include conduct constituting domestic violence as defined above.

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person under similar circumstances and with similar identities to the reporting party to fear for the person’s safety or the safety of others, or suffer substantial emotional distress (that may, but does not necessarily, require medical or other professional treatment or counseling). Stalking includes, but is not limited to, repeatedly (i.e., on two or more occasions) engaging in: contact, face-to-face communication, telephone calls or messages, text messages, emails or letters to or about a person; the giving of unwanted gifts; threatening or obscene gestures; or surveillance, following, trespassing or vandalism.

The above definitions and explanations are provided for educational and illustrative purposes. A person reporting an incident need not worry about which category of Sexual Misconduct applies to or whether all elements of a particular definition of misconduct have been met. An individual reporting an incident is expected only to relay the facts in good faith; College representatives trained in responding to Sexual Misconduct will assist the reporting party in determining whether the incident may constitute a violation of this Policy. Students should never feel pressured to engage in sexual relationships or activity of any kind with anyone, including another student or a Le Moyne College faculty or staff member.

IV. Definitions of Affirmative Consent, Confidentiality, Privacy and Amnesty

A. Affirmative Consent

Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity. Silence or lack of resistance, in and of itself, does not demonstrate consent. The definition of consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

Consent to any sexual act 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 it is the result of any coercion, intimidation, force or threat of harm. When consent is withdrawn or can no longer be given, sexual activity must stop.

Consent 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 an 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.

In considering whether an individual is incapacitated due to drug or alcohol use, the College will look at a number of factors, including but not limited to the type/amount of alcohol and/or drugs used, as well as such outward signs as slurred or incoherent speech, impaired motor skills (e.g. walking, texting), vomiting, loss of consciousness, etc.

Incapacitation may also result from a physical or mental disability. In addition, in New York, a minor (someone under the age of 17) cannot consent to sexual activity. This means that sexual contact with a person less than 17 is a crime as well as a violation of this Policy even if the minor wanted to engage in the sexual activity. If any person has any information that a minor has been subjected to sexual activity, it should be reported to Campus Security and/or the Police immediately.

B. Confidentiality

Confidentiality may be offered by an individual who is not required by law or policy to report known incidents of sexual assault or other crimes to institutional officials in a manner consistent with state and/or federal law. Licensed mental health counselors, medical providers and pastoral counselors are examples of institutional employees who may offer confidentiality.

C. Privacy

Privacy may be offered by an individual when such individual is unable to offer confidentiality but shall still disclose information learned from a reporting individual or bystander to a crime or incident no more than necessary to comply with this Policy and applicable laws, including informing appropriate College officials.

The Title IX Coordinator/Deputies, Investigating Team, Review Panel/Officers, Appeal Panels and anyone else with a role under this Policy are required to maintain privacy as to student conduct records, the deliberations, and votes taken.

D. Amnesty Policy for Alcohol and/or drug use

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 violence, including but not limited to domestic violence, dating violence, stalking or sexual assault occurs may be hesitant to report such incidents due to fear of potential consequences for their own conduct. The College strongly encourages students to report domestic violence, dating violence, stalking or sexual assault to College officials. A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking or sexual assault to College officials or law enforcement will not be subject to the College's Community Standards for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

V. Reporting Options

Le Moyne College strongly encourages students and/or witnesses of Sexual Misconduct to report these incidents. Retaliation and threats of retaliation or other attempts by a student to prevent the reporting of Sexual Misconduct outlined in this Policy are also considered violations of this Policy. Le Moyne College will take steps to prevent or address retaliation by anyone within its jurisdiction against any person making a report of sexual misconduct or cooperating with any investigation or adjudication of such a report.

Students have options with respect to securing a College response to a Sexual Misconduct incident. These options include a report to College administration to understand and/or pursue on campus procedures, a police report to understand and/or pursue a criminal investigation (including the New York State Police), or a confidential report to the Wellness Center for Health and Counseling or a clergy member. These options are not mutually exclusive, and a student may take advantage of all of these options. Trained counseling center staff and/or a Title IX Coordinator may review all of the reporting options with the reporting party.

A student also has the right to not report to any or all of the foregoing.

Students who are in immediate danger need to get to a safe place and can contact Campus Security at 315-445-4444 or dial 911. Students in need of medical attention should call Campus Security at 315-445-4444 or dial 911.

A. Report for a Response by the College

A report to the College should be made whenever an individual wishes for the College to take some action in response to the situation. Incidents of Sexual Misconduct should be reported to the following **Responsible Administrators** for action:

- Campus Security at 315-445-4444 — **Available 24/7**
- Title IX Coordinator: Deborah Cady Melzer, 315-445-4278
- Deputy Title IX Coordinators:
 - Ann Bersani, Associate Director of Campus Life and Leadership, 315-445-4522
 - Karin Botto, Human Resources, 315-445-4155
 - C. Tabor Fisher, Philosophy Faculty Member, 315-445-4256
 - Scott Peterson, Athletics, 315-445-4217
- Resident Advisor (RA) and Area Directors (AD). Students may report incidents of Sexual Misconduct to an RA. The RA and AD will notify one of the above administrators and

the appropriate College support services such as the Wellness Center for Health and Counseling office and/or Campus Life and Leadership.

While the College treats all Faculty and all full time Staff and Administrators (who are not classified as Confidential under V B of this Policy) as responsible employees with an obligation to advise the Title IX Coordinator of violations of this Policy which they observe or otherwise learn about, a person who has been subjected to Sexual Misconduct is strongly urged to contact one of the specific Responsible Administrators listed above. If a report is made to anyone else, the reporting party risks a delay in that report getting to individuals authorized to act upon it and even the possibility that it will not come to the attention of the proper College officials and may, therefore, not be acted upon at all. Once a report is made, the Responsible Administrator to whom the report is made will inform the Title IX Coordinator or his/her deputy.

The reporting party will be advised by the Title IX Coordinator of his/her rights and the options moving forward. This will include an explanation of investigatory/disciplinary avenues, as well as other responsive (including interim) measures, such as changes in academic, housing, transportation and work arrangements to minimize the reporting person's contact with the respondent.

Sometimes, a reporting party files an incident report but does not want an investigation or disciplinary action to be taken by the College. The College endeavors to respect and follow the wishes of an individual who brings forward a Sexual Misconduct concern. However, it may or may not be possible for the College to honor a request to not investigate or initiate disciplinary action.

If an individual makes a report but does not wish for there to be an investigation or any disciplinary action, the Title IX Coordinator will confer with appropriate administrators and decide whether the request can be honored. The College's decision will depend on the seriousness of the offense, whether the incident reflects an escalation in unlawful conduct on the part of the respondent, whether the offense is alleged to have included a single or multiple respondents, whether there is reason to believe that the respondent has engaged in the reported conduct or similar conduct previously or otherwise has a history of violent behavior or is a repeat offender, whether the circumstances suggest an ongoing or future risk to the campus community or the reporting party (such as threats of future violence); whether the incident involved the use of force or weapons; whether the reporting party was a minor; whether the College possesses other means to obtain relevant evidence; and similar considerations. A decision will be made and shared with the person who brought forward the concern.

Similarly, a reporting party may desire to have investigatory and/or disciplinary action taken, but may wish to have his/her identity as the reporting party kept confidential. Depending on the circumstances, this may or may not be possible. If any number of people could have reported the incident, it may be possible for the reporting person's identity to remain confidential and not be shared with the respondent. However, in other cases, it may not be possible to proceed with investigatory or disciplinary action without revealing the identity of the reporting party. If a reporting party requests that his/her name be kept confidential (or if the reporting party makes an anonymous complaint), the College's ability to respond to the report may be limited. The Title IX Coordinator will discuss the situation and the reporting person's request for confidentiality, and a decision will be made and shared with the reporting person.

Ultimately, the College retains the right (and in some cases may have the obligation) to act upon any information that comes to its attention. ***Therefore, if a person believes that he or she has been subjected to Sexual Misconduct and wants support but does not want***

the College to take further action (or is not yet certain whether he or she desires such action), he or she should utilize one of the Confidential Resources described below.

Nonetheless, when the College and its employees cannot guarantee confidentiality, they will maintain an individual's privacy to the greatest extent possible. The information provided to a non-confidential resource will be relayed only as necessary for the Title IX coordinator to investigate and/or seek a resolution, and to otherwise comply with this Policy.

A student may file an official incident report regarding an act of Sexual Misconduct 24 hours a day, 7 days a week with Campus Security located in the basement of Nelligan Hall, at 315-445-4444. The report will include the reporting party's name, as well as the responding student if known. A preliminary investigation may be conducted by Campus Security. The Campus Security report will be forwarded to the Title IX Coordinator, who will follow the procedures outlined in this Policy.

Reports may also be made anonymously by contacting the Title IX Coordinator or the Campus Sexual Assault Hotline (315-251-SAFE). The College's ability to respond, however, may be limited by such anonymity.

Upon receiving a report, the Responsible Administrator to whom the report was made will discuss with the reporting party available avenues and options. Options may include disciplinary action against the respondent and remedial actions to ameliorate or correct the effects of the Sexual Misconduct. Other options may include interim no contact orders, changes in academic, extracurricular, residential, transportation, dining or working arrangements, access to academic, medical, counseling and other support, as appropriate. Reporting to local law enforcement also is an option. The College will review the facts and circumstances of each case, as well the reporting party's wishes, in deciding whether and what steps are reasonable and appropriate.

B. Confidential Reports

Le Moynes understands that a student who has experienced Sexual Misconduct may wish to talk about the incident with the understanding that the discussion will not be reported under this policy. The support resources that students may utilize on a confidential basis include the **Wellness Center for Health and Counseling** (consistent with its protocols on confidentiality) and **our campus clergy (acting in their role as clergy)**. Students are encouraged to consult these sources for confidential emotional support. ***A discussion with any of these sources does not result in a report being filed with the College or result in action being taken by the College to respond to the incident.*** A student wishing to have an incident investigated or adjudicated should report in accordance with the procedures described in this Policy.

Wellness Center for Health (services are free for all students) 315-445-4440

Wellness Center of Counseling (services are free for all students) 315-445-4195

Sexual Assault Hotline 315-251-SAFE

C. Reports to Law Enforcement

A person who has been the victim of Sexual Misconduct is encouraged to contact local law enforcement directly by dialing 911, the New York State Police Sexual Assault Hotline (844-845-7269). If requested, Campus Security (315-445-4444) will assist such a person in making a report to local law enforcement. Campus Security staff are Responsible Administrators, therefore if the report does come to the attention of Campus Security, even if only through a request to assist with contacting local law enforcement, it will be shared with the Title IX Coordinator and/or Deputy. Filing an official police report is different than filing a report with the College. When a person files a Sexual Misconduct report with local law enforce-

ment a criminal investigation may be initiated and that investigation is often transferred to either the Syracuse Police Department or Onondaga County Sheriff's Office Abused Persons Unit for further investigation. Based on the criminal investigation, a determination will be made as to whether the case will be prosecuted. The criminal justice process utilizes different standards of proof and evidence. (Any questions about whether a specific incident violated the penal law should be directed to law enforcement or the Onondaga County District Attorney (911 or 315-435-2470). The preservation of evidence is critical to the prosecution of a criminal case. If you have been the victim of a Sexual Misconduct, vital evidence may be lost if you change your clothes, shower, brush your hair, or allow time to pass before your physical state is documented by the police or a doctor. Any person who has experienced sexual assault or an act of violence is encouraged to contact the law enforcement immediately for further instructions as to the preservation of evidence.

New York State Police Sexual Assault Hotline	844-845-7269
Onondaga Sheriff Abused Persons Unit	315-435-3092
City of Syracuse Police Department	911 or 315-422-5111
Syracuse Police Abused Persons Unit	911 or 315-435-3016
Town of Dewitt Police Department	911 or 315-425-2333
Onondaga County Sheriff's Office	911 or 315-425-2111

A criminal investigation into allegations of Sexual Misconduct does not end the College's duty to investigate and resolve reports promptly and equitably. In certain cases, Le Moyne College may wait to proceed with its own fact finding investigation and procedures under this Policy until the police have completed their initial evidence gathering phase of their investigation. Le Moyne College will not defer its investigation and disciplinary processes thereafter (e.g., pending the completion of any civil or criminal case).

VI. Rights

A. 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 College conduct process and/or criminal justice process free from pressure by the College;
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 College 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 College representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by the College, any student, the accused and/or the respondent, and/or their friends, family and acquaintances within the jurisdiction of the College;

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 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.

B. Other Rights In Cases Involving Sexual Assault, Domestic/Dating Violence and Stalking

The rights of others, even if not a student, appear at Appendix A.

C. Support Services for both the Reporting and Responding Party

Campus support services (Free)

- Wellness Center, Counseling (for Students): 315-445-4195 (Confidential)
- Wellness Center, Health Services (for Students): 315-445-4440 (Confidential)
- SAFE Hotline: 315-215-SAFE
- Title IX Coordinator: Deborah Cady Melzer 315-445-4278

Off-campus resources (at the student's expense, if any)

- Vera House (Confidential): 315-468-3260
- City of Syracuse Police Department: 911 or 315-442-5111
- Town of DeWitt Police Department: 911 or 315-425-2333
- Onondaga County Sheriff's Office: 911 or 315-425-2111
- St. Joseph's Hospital Emergency Room (Confidential): 315-448-5101
- University Hospital Emergency Room (Confidential): 315-464-5611
- Crouse Hospital Emergency Room (Confidential): 315-470-7411
- NYS Police Sexual Assault Hotline: 1-844-845-7269
- NYS Domestic Violence Hotline: 1-800-942-6906

VII. Administrators of the Policy

The administrators of this Policy are described below.

A. Title IX Coordinator/Deputies

The oversight responsibility for the Policy and procedures primarily rests the Title IX Coordinator and Deputies. These officers are appointed by the President, and in the role of Title IX Coordinator/ Deputy, report directly to the President. The Title IX Coordinator and Deputies will come from the ranks of the faculty and staff. Whenever possible, the President will appoint a gender-balanced team. These individuals will coordinate educational programs for the College community, train personnel, and administer the procedures described in the Policy. Normally, the Title IX Coordinator/Deputies do not have a direct role in decision making process. Instead, their role is to protect the integrity and fairness of the procedures.

B. Investigating Team

In cases where a report for a response by the College has been filed with a Responsible Administrator, an Investigating Team will be appointed by the Title IX Coordinator. This Team will normally consist of one or more trained investigators. In addition, a Title IX Deputy will be responsible for monitoring compliance with the Policy during the course of the investigation and providing guidance to the Investigating Team under the Policy. Members of the Investigating Team are specifically designated and undergo appropriate train-

ing to assist in the processing of formal complaints alleging Sexual Misconduct. The role of the Investigating Team is to: participate in the collection of facts and evidence related to the report including information from the reporting party, the responding party and other witnesses; and to refer their report to the Review Panel, or others as provided for in this Policy.

C. Review Panel (Student Respondents)

The Review Panel, chaired by the Assistant Dean for Student Development, consists of 3 additional faculty and/or staff who are specifically designated and undergo appropriate training to assist in the processing of formal complaints in which a student is alleged to have engaged in Sexual Misconduct. The Review Panel shall have the responsibilities of making the decision as to whether a responding individual has committed a violation of College policies and determining appropriate sanctions and remedies based on the preponderance of evidence (i.e., whether the charged conduct is “more likely than not” to have occurred) after a review of the Investigating Team’s report. Evidence does not have to be in the form of physical evidence nor does the violation have to be witnessed. Circumstantial information can be sufficient in some instances for the College to determine that a violation was “more likely than not” to have occurred. The Assistant Dean for Student Development’s role is administrative and is not a decision-maker in this process.

D. Review Officers (Faculty Respondent)

In cases in which a Faculty member is accused by a student of violating this Policy, the Investigating Team’s report will be forwarded to a Review Panel chaired by the appropriate Dean, as designated by the Provost. The Review Panel will consist of three employees of which at least two out of the three panelists are faculty members. The Review Panel shall have the responsibilities of making the decision as to whether a responding individual has committed a violation of College policies and determining appropriate sanctions and remedies based on the preponderance of evidence (i.e., whether the charged conduct is “more likely than not” to have occurred) after a review of the Investigating Team’s report. Evidence does not have to be in the form of physical evidence nor does the violation have to be witnessed. Circumstantial information can be sufficient in some instances for the College to determine that a violation was “more likely than not” to have occurred. The Dean’s role is administrative and is not a decision-maker in this process.

E. Review Panel (Staff Respondents)

In cases in which a Staff respondent is accused by a student of violating this Policy, the Investigating Team’s report will be forwarded to a Review Panel chaired by the applicable Vice President as appointed by the Title IX Coordinator. The Review Panel will consist of three employees made of either faculty members and/or staff. The Review Panel shall have the responsibilities of making the decision as to whether a responding individual has committed a violation of College policies and determining appropriate sanctions and remedies based on the preponderance of evidence. Evidence does not have to be in the form of physical evidence nor does the violation have to be witnessed. Circumstantial information can be sufficient in some instances for the College to determine that a violation was “more likely than not” to have occurred. The Vice President’s role is administrative and is not a decision-maker in this process.

F. Appeals Panel (Student Respondents)

Panel has taken formal action, either party decides to appeal the decision. The Title IX Coordinator as chair of the appeals panel, will appoint an Appeals Panel of two (2) individuals from the pool of trained faculty and/or staff who have not participated in the investigation or review panel. (In the event the two members are not able to reach an agreement, a third member shall be appointed by the Title IX Coordinator.) The role of the Appeals Panel

is to act on any appeal request. The Title IX Coordinator's role is administrative and is not a decision-maker in this process.

G. Appeals Panel (Faculty Respondents)

An appeals panel comprised of the Provost and a Dean not involved in the original decision, as appointed by the Title IX Coordinator, will act on any appeal request, a third member will be appointed if the two original appointees cannot agree.

H. Appeals Panel (Staff Respondents)

An appeals panel of two Vice Presidents not involved in the original decision of the staff respondent as appointed by the Title IX Coordinator will act on any appeal request, a third member will be appointed if the two original appointees cannot agree.

I. Legal Counsel

An attorney who is responsible to the Board of Trustees shall be made available by the College to advise the Title IX Coordinator/Deputies, Investigating Team, Review Panel and/or Appeals Panel, at any time, to be coordinated through Title IX Coordinator.

VIII. Interim Measures/Suspensions

In appropriate cases, interim relief may be available for either party to a report while an investigation and/or review is pending. Relief may include no-contact orders; changes in academic, extracurricular, residential, transportation, dining or working arrangements; access to academic, counseling and other support; as well as safe walks and escorts, and other relief as appropriate. This relief can be secured through the Title IX Coordinator.

When as a result of a Sexual Misconduct report a no contact order is issued against an individual and that individual and the person protected by the no contact order observe each other in a public place, unless otherwise provided in the no contact order it is the responsibility of that individual subject to the no contact order to leave the area immediately and without directly contacting the person protected.

When a non-contact order is issued, both the person against whom it is issued and the person seeking the no contact order, will, upon request, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of the no contact order, including potential modification. This request may be made by submitting a written request to the Title IX Coordinator, providing the basis for the request and submitting any evidence in support of the request.

Continued intentional contact in violation of a no-contact order is grounds for additional misconduct charges.

Upon request, an individual may also seek a prompt review of the need for and terms of any other interim measure and accommodation that directly affects him or her, by submitting a written request for review to the Title IX Coordinator, providing the basis for that request and any evidence in support.

When a student accused of Sexual Misconduct is determined to present a continuing threat to the health and safety of the campus community, he or she is subject to interim suspension pending the outcome of any proceedings under this Policy. Both that student as well as the subject of any such misconduct will, upon written request, be afforded an opportunity for a review of the need for and terms of an interim suspension, including potential modification, by submitting a written request to the Title IX Coordinator, providing the basis for that request and any evidence in support.

In those cases where, in the opinion of the College, the continued presence of an individual on campus constitutes a threat of danger or injury to others or a threat of disruption of the educational or living environment, that individual may be immediately suspended from the College and/or otherwise prohibited from access to campus, or other appropriate interim action taken.

In the case of the suspension or other removal from campus, either party shall be afforded a prompt review of the need for and term of any interim suspension by submitting a request in writing to the Title IX Coordinator, which shall be accompanied by any evidence in support of that request.

IX. Orders of Protection

Campus Safety, or other College officials, will provide reasonable assistance to a College campus community member, in connection with prohibited Sexual Misconduct conduct under this Policy, in obtaining an order of protection or, if outside of New York State, an equivalent protective or restraining order. This assistance includes providing that person with:

- i. a copy of an order of protection or equivalent when received by the College and providing that person with an opportunity to meet or speak with a College representative, or other appropriate individual, who can explain the order and answer questions about it, including information from the order about the other person's responsibility to stay away from the protected person or persons;
- ii. an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension; and
- iii. assistance from Campus Safety in contacting local law enforcement to effect an arrest for violating such an order.

X. Investigation

Upon receipt of a report and a desire by the reporting party to move forward, or a determination by the Title IX Coordinator to move forward in the absence of a participating reporting party, the College will conduct an investigation.¹ The Title IX Coordinator reserves the right, in exceptional cases, to utilize external investigators, alone or in conjunction with internal investigators. Investigation of reports will be completed as expeditiously as possible, ordinarily within 30 days.² Investigation may take longer when (among other things) the initial report fails to provide direct firsthand information or when the College is not in session. An investigation usually involves interviews of witnesses and reviewing relevant documentation. During the investigation, the reporting party and the responding party will have an equal opportunity to share information and request that witnesses be interviewed. The reporting party and the responding party will not be interviewed together or be required to meet together. The investigators retain discretion to otherwise determine how to conduct the investigation and what information is necessary and relevant.

¹ In unusual cases, it may be apparent that an investigation should not proceed. This may be the case if the report is not of a nature covered by this Policy; where another Policy or procedure is more appropriate; or where there is indisputable proof that the allegations are not true. If a determination is made by [the Title IX Coordinator] not to proceed, the reporting party will be so informed.

² All deadlines and time requirements in this Policy may be extended for good cause as determined by the Title IX Coordinator and/or designee. Both the reporting and responding parties will be notified in writing of the reason for the delay and the date of the new deadline or event.

A. Advisor

During an investigation of any report filed, the reporting party and the responding party may bring an advisor drawn from non-lawyer, active members of the College community, except that in cases involving sexual assault, domestic or dating violence or stalking, it can be an advisor of choice, to any related meeting/interview. Any expense incurred in using an advisor is borne by the individual. Each party must inform the Title IX Coordinator of their interest in having an advisor accompany them at least 24 hours prior to attending any meeting. An individual may be precluded from serving as an advisor if the Title IX Coordinator determines that a conflict of interest exists.

Individuals are expected to speak for themselves during meetings/interviews; accordingly, advisors may furnish advice to the individual only and may not make statements or arguments, question witnesses or other individuals involved, or otherwise actively represent an individual during the meeting/interview. Without limiting the foregoing, an advisor may not speak during any meetings /interviews related to the report, object to any aspect of the meeting/interview, or disrupt a meeting /interview in any way. Any consultation with the advisee while a meeting /interview is in progress must be done in writing only and in a way that is not disruptive.

The advisor may consult with the advisee outside the meetings /interviews during breaks, if any. If an advisor is not adhering to these or other ground rules of any meeting/interview, the advisor may be expelled from the meeting/interview, and the meeting /interview will continue without opportunity for the party to secure a new advisor.

B. Investigation Process

Investigatory meetings/interviews will be conducted by the Investigation Team, who will determine the order and method of proceeding. The Investigation Team will review the charges during the meeting/interview; will determine all questions of procedure or interpretation arising during or with respect to the meetings/interviews and may exclude from a meeting/interview any person who engages in conduct in violation of these procedures. Meetings/interviews may be recorded by the Investigating Team (only), at its discretion, and with notice to the person being recorded.

The investigation process will generally be closed to anyone other than the interviewee, and if the responding party and/or reporting party, their advisor, but the Investigation Team may permit others to attend if it is deemed that the individual may be helpful to its review and determination of the charges, or that there are other compelling reasons for their presence.

C. Witnesses

The reporting and responding parties may each request that witnesses be included in the investigation process. Such requests must be submitted to the Investigation Team in writing including the purpose for including the witnesses.

The Investigation Team may decide not to include a requested witness if the Investigation Team determines that the expected testimony is not sufficiently relevant to the charges or is cumulative. The Investigation Team may also interview additional witnesses on its own initiative.

D. Investigating Team's Report

At the conclusion of the investigation, the Investigating Team will provide, their report, including any credibility determinations, to the Title IX Coordinator for distribution to the appropriate body/person. The reporting and responding parties shall be notified of the conclusion of the investigation and shall, upon written request directed to the Title

IX Coordinator and received within 48 hours of that notice, be given the opportunity to review on campus the investigating team's report and relevant information in the case file. A requesting party shall be given a 7 day period during which access to this material may be available for a scheduled review. Access is limited to the requesting party, who may not, make photocopies or take photographs of the materials. Each party shall also be allowed to provide an additional written statement (including a personal impact statement) for consideration by the Review Panel (or other body) during this same 7 day period. (The College reserves the right to redact material from the file as permitted and/or required by law.) Any written statement provided by a party may be reviewed by the other party, who will have 24 hours to submit a response.

E. Review

a. Student Respondents

In cases in which the respondent is a student, after the Investigating Team has completed meeting with both parties and all relevant witnesses, the team will produce a report of fact discovery and forward to the Chair of the Review Panel. The Chair will convene a panel of 3 trained faculty and staff members to review the investigating team's full report.

The Review Panel may review any written documentation from the investigation and/or any recordings made during the investigation meetings. The Review Panel may, but is not obligated to, provide the reporting and the responding student an opportunity to appear before the Review Panel, but any such opportunity must be provided equally (if at all) to both parties. If the Review Panel desires, they may also ask questions (in writing or in person) of the reporting/responding students, the witnesses and/or the Investigating Team. The Review Panel may also request additional information or ask the Investigating Team to ask any party or witness additional questions.

The Review Panel will deliberate and make a decision based upon the preponderance of the evidence (or more likely than not) as to responsibility and, if appropriate sanction. The Review Panel may consider the record of any previous disciplinary action or other violation of College Policy in determining sanctions.

The Chair of the Review Panel will inform the reporting and responding party, simultaneously and in writing, of the decision, including findings of fact and rationale therefore, and sanction, if appropriate, to the extent permitted by law. The decision of the Panel is effective immediately. The notice will include a reference to the available appellate procedure and the potential outcomes of that procedure. The Review Panel's determination is typically provided within 7 days after the Panel receives the investigating team's report.

b. Faculty Respondents

In cases in which the respondent is a Faculty member, after the Investigating Team has completed meetings with both parties and all relevant witnesses, the team will produce a report of fact discovery and forward to the appropriate Dean as designated by the Provost, who will forward the report to the Review Panel for review and decision. The Dean will chair the Review Panel but is not a decision-maker in this process.

c. Staff Respondent

In cases in which a Staff member is a respondent, the Review Officer will conduct a review similar to that provided for above (in cases involving Faculty respondents) and the Review Panel will make a determination as to responsibility and sanctions, if appropriate. The Review Panel will be chaired by the applicable Vice President as appointed by the Title IX Coordinator and will not be involved in the decision making process.

XI. Sanctions and Corrective Action

The College is committed to rectifying the consequences of Sexual Misconduct. It is the responsibility of the Review Panel (or other appropriate authority) to determine the appropriate sanction of the individual that has been found in violation of this Policy, as well as determine any other corrective action that may be appropriate.

In assessing a sanction involving a student respondent, the seriousness of the Sexual Misconduct incident and a student's prior disciplinary record (if any) will be evaluated. Although some incidents may result in lesser forms of disciplinary action, Le Moyne reserves the right to impose any level of discipline, up to and including suspension or expulsion, for any act of Sexual Misconduct, based on the facts and circumstances of the particular case. A potential listing of sanctions may be found in the Student Conduct Process section of the Student Handbook.

When the accused is a Faculty member or Staff member, the seriousness of the Sexual Misconduct incident and the accused's prior record (if any) will be evaluated. The College reserves the right to impose any level of discipline, up to and including termination, for any act of Sexual Misconduct, based on the facts and circumstances of the particular case. Where applicable, discipline will be issued in accordance with any collective bargaining agreements.

XII. Appeal Procedures

a. Student Respondents

When the accused is a student, after an investigation has been completed and a Review Panel has made a decision and taken formal action, either party may appeal the decision of the Review Panel. Appeals must be submitted in writing to the Title IX Coordinator within five business days of the date of the Review Panel findings letter. The appeal statement should include all information the party wishes to have considered. An appeal must be based on one or more of the following grounds:

- a procedural error occurred during the process that had a direct impact on the outcome,
- new information has come to light that has a direct impact on the outcome and which could not have been discovered by a properly diligent person before or during the Investigation, and/or
- the sanction is inappropriate (too severe or too light).

The following is a general description of the Appeals process. The process may vary as appropriate for specific cases.

A party's appeal statement is subject to review by the other party, who will then have 24 hours to submit a response.

The Appeals Panel shall review the appeal, any written documentation from the investigation and/or review panel notes or any recordings made during the investigation or review panel proceedings. The Appeals may, but is not obligated to, provide the reporting and the responding student an opportunity to appear before the Appeals Board, but any such opportunity must be provided equally (if at all) to both parties. If the Appeals Board desires, they may also ask questions of the reporting/responding student, ask questions of the Review Panel and/or request additional information. Following review, the Appeals Board may take any action it deems warranted, including without limitation:

- uphold the finding of responsibility and the sanctions (if any) as originally imposed;
- uphold the finding of responsibility but change the sanction;
- overturn the finding of responsibility (and impose sanctions as applicable); or

- ask the original Review Panel or a new Review Panel to review the case in whole or in part

It is expected that the Appeals Board will meet to review and make a decision on the appeal within 10 working days of the receipt of the appeal. The Chair will inform the reporting and responding parties, simultaneously and in writing, of the decision and the rationale therefore, to the extent permitted by law. This notice is typically provided within 7 days after the Appeals Board reaches its determination.

The Appeals Board is not subject to review or further appeal (though the reporting student and/or the responding student retain the right to appeal (as provided above) any re-hearing ordered by the Appeals Board).

The Appeals Board proceedings are not open to the public, other members of the College community, parents, family members, or friends. The Chair shall have final authority regarding individual access to Appeals Board proceedings. If the reporting or responding student is asked to appear before the Appeals Board, they may each bring an advisor of their choice (as provided earlier in this Policy and at the party's own expense, if the advisor is a paid advisor). Each party must inform the Chair of the identity of his or her advisor at least 24 hours before the hearing. Students are expected to speak for themselves during Appeals Board proceedings; accordingly, advisors may furnish advice only and may not make statements or arguments, question individuals involved in the proceedings, or otherwise actively represent a student during the proceedings. The advisor may not speak during the proceedings, object to any aspect of the proceedings, or disrupt the proceedings in any way, and any consultation with the advisee while the proceedings are in progress must be done in writing only. The advisor may consult with the advisee verbally outside the proceedings during breaks, if any. If the Chair determines that an advisor is not adhering to these or other ground rules of the proceedings, the advisor will be expelled from the proceedings, and the proceedings will continue without opportunity for the party to secure a new advisor.

The Appeals Board members are required to maintain privacy as to student conduct records, the deliberations, and votes taken.

b. Faculty Respondents

When the accused is a Faculty member, the Title IX Coordinator will be responsible for appointing an Appeals Panel consisting of a Dean who was not involved in the original decision, who together with the Provost will constitute the Appeals Panel. In those cases, the following procedures will apply.

Appeals must be submitted in writing to the Title IX Coordinator within five business days of the date of the Dean's findings letter. The Appeal Statement should include all information the party wishes to have considered. An appeal must be based on one or more of the following grounds:

- a procedural error occurred during the process that had a direct impact on the outcome,
- new information has come to light that has a direct impact on the outcome and which could not have been discovered by a properly diligent person before or during the Investigation, and/or
- the sanction is inappropriate (too severe or too light).

The following is a general description of the Appeals process. The process may vary as appropriate for specific cases.

A party's appeal statement is subject to review by the other party, who will then have 24 hours to submit a response.

The Appeals Panel shall review the appeal, any written documentation from the investigation and/or review panel notes or any recordings made during the investigation or review panel proceedings. The Appeals Panel may, but is not obligated to, provide the reporting and the responding parties an opportunity to appear before the Appeals Panel, but any such opportunity must be provided equally (if at all) to both parties. If the Appeals Panel desires, they may also ask questions of the reporting/responding student, ask questions of the Review Officer and/or request additional information. Following review, the Appeals Panel may take any action it deems warranted, including without limitation:

- uphold the finding of responsibility and the sanctions (if any) as originally imposed;
- uphold the finding of responsibility but change the sanction;
- overturn the finding of responsibility (and impose sanctions as applicable); or
- ask the original Review Officer or a new Review Officer to review the case in whole or in part

It is expected that the Appeals Panel will meet to review and make a decision on the appeal within 7 working days of the receipt of the appeal. The Appeals Panel will inform the reporting and responding parties, simultaneously and in writing, of the decision and the rationale therefore, to the extent permitted by law. This notice is typically provided within 7 days after the Appeals Panel reaches its determination.

The Appeals Panel is not subject to review or further appeal (though the reporting student and/or the responding student retain the right to appeal (as provided above) any re-hearing ordered by the Appeals Panel).

The Appeals Panel proceedings are not open to the public, other members of the College community, parents, family members, or friends. The Appeal's Panel shall have final authority regarding individual access to its proceedings. If the reporting or responding parties are asked to appear before the Appeals Panel, they may each bring an advisor of their choice (as provided earlier in this Policy and at the party's own expense, if the advisor is a paid advisor). Each party must inform the Title IX Coordinator of the identity of his or her advisor at least 24 hours before the hearing. Faculty are expected to speak for themselves during Appeals Panel proceedings; accordingly, advisors may furnish advice only and may not make statements or arguments, question individuals involved in the proceedings, or otherwise actively represent a Faculty member during the proceedings. The advisor may not speak during the proceedings, object to any aspect of the proceedings, or disrupt the proceedings in any way, and any consultation with the advisee while the proceedings are in progress must be done in writing only. The advisor may consult with the advisee verbally outside the proceedings during breaks, if any. If the Appeals Panel determines that an advisor is not adhering to these or other ground rules of the proceedings, the advisor will be expelled from the proceedings, and the proceedings will continue without opportunity for the party to secure a new advisor.

The Appeals Panel is required to maintain privacy as to student conduct records, the deliberations, and votes taken.

c. Staff Respondents

When the accused is a Staff member, an Appeals Panel of at least two Vice Presidents not involved in the original review will be appointed by the Title IX Coordinator in the event either party appeals (if those two members cannot agree on an outcome, a third member will be appointed). In such cases, appeals will otherwise be handled on the same basis as provided above (for faculty respondents).

XIII. Institution Initiated Proceedings

Normally, individuals are responsible for filing reports on behalf of themselves. However, in cases where appropriate, the College may need/choose to bring formal charges itself. The decision to undertake institution-initiated proceedings lies with the Title IX Coordinator.

XIV. Rights of Parties During Investigation, Review and Appeal

A. Rights of the Reporting Person.

The reporting person under these procedures has:

- (1) the right to provide a personal statement before any sanction is imposed;
- (2) the right to make his/her statement without directly confronting the party charged;
- (3) the right to be notified in advance in writing (including electronically) of any meeting they are required or eligible to attend and the reason for that meeting;
- (4) the right not to have his or her past sexual history with the other party considered, unless determined to be directly relevant to the matter at hand, and the right to not have their prior sexual history with other persons considered as part of a responsibility determination;
- (5) the right to ask that witnesses relevant to the case be interviewed as part of the investigation and to submit other evidence for consideration; however, the investigator(s) may establish a reasonable limit on the number of witnesses and to also place reasonable restrictions on the consideration of any proffered information;
- (6) the right to appeal a decision to the extent provided for in this Policy;
- (7) the right to raise any issues of conflict of interest related to individuals serving in official roles under this Policy;
- (8) the right to decline to answer a question during the investigatory and/or review process. However, the investigation and review proceeds based on the information provided;
- (9) the right to have their own mental health diagnoses and/or treatment excluded during any responsibility determination.

B. Rights of the Respondent.

The respondent under these procedures has:

- (1) the right to be informed of the factual allegations concerning any alleged violation, the date, time and place of the alleged violation; a reference to the Policy provisions violated and possible sanctions;
- (2) in the course of the investigatory and adjudicatory process, the right to be presumed not responsible for a violation until a finding of responsibility has been made;
- (3) the right to provide a personal statement before any sanction is imposed;
- (4) the right to be notified in advance in writing (including electronically) of any meeting they are required or eligible to attend and the purpose of the meeting;
- (5) the right to make his/her statement without directly confronting the complaining party
- (6) the right not to have his or her past sexual history with the other party considered, unless determined to be directly relevant to the matter at hand, and the right to not have their prior sexual history with other persons considered as part of a responsibility determination (prior findings and sexual assault, domestic violence, dating violence and stalking may be considered in determining a sanction, as may other aspects of the respondent's overall record);
- (7) the right to ask that witnesses relevant to the case be interviewed as part of the inves-

- tigation and to submit other evidence for consideration. However, the investigator(s) may establish a reasonable limit on the number of witnesses and to also place reasonable restrictions on the consideration of any proffered information;
- (8) the right to appeal a decision to the extent provided for in this Policy;
 - (9) the right to raise any issues of conflict of interest related to individuals serving in official roles under this Policy;
 - (10) the right to decline to answer a question during the investigatory and/or review process. However, the investigation and review proceeds based on the information provided;
 - (11) the right to have their own mental health diagnoses and/or treatment excluded during any responsibility determination.

XV. Retaliation

Retaliation against persons who initiate reports or support action against Sexual Misconduct is strictly forbidden. Retaliation includes any adverse action which would reasonably tend to dissuade such individuals from coming forward, including but not limited to any form of intimidation, reprisal, or harassment.

Allegations of retaliation shall be promptly investigated. A thorough investigation using the procedures stated in this Policy will be conducted, preferably by the individuals already familiar with the case. Any individual over whom the College has jurisdiction and who retaliates against any person who reports, or is thought to have reported, alleged Sexual Misconduct, or who retaliates against any person who testifies, assists, or participates in an investigation relating to a Sexual Misconduct charge will be subject to disciplinary or such other action as the College deems appropriate. Retaliation shall be considered a serious violation of this Policy and shall be independent of whether the alleged Sexual Misconduct is substantiated. Encouraging others to retaliate is also a violation of this Policy. Evidence of retaliation will be admissible in an ongoing investigation relating to sexual misconduct charge.

The reporting and responding parties in a Sexual Misconduct case are strongly encouraged not to discuss the report with other people except as required by the need for advice and support, and to the extent necessary for the reporting party, the responding party or their advisors to pursue or defend reports. Discretion on the part of all concerned should be exercised. Public discussion of Sexual Misconduct reports beyond what is necessary and appropriate can be a form of retaliation.

XVI. Education for all Students

All students new to the Le Moyne Community (first years, transfers, part-time and graduate students) are required to participate in the Sexual Misconduct Education offered during their Orientation Process. Student Athletes must have documentation of completion of training prior to competition and student club and organization executive officers must have documentation of completion of training prior to recognition and budget approval.

XVII. Training

Responsible Administrators, persons assigned as investigators and individuals determining violations of this Policy will receive annual training on relevant topics, including discrimination, harassment, sexual assault, stalking, domestic violence and dating violence and how to conduct investigations (including specifically investigations involving sexual assault, domestic and dating violence and stalking), the right during investigatory and adjudicatory proceedings to a presumption of “not responsible” until a finding of responsibility is made, the College’s disciplinary proceedings, protecting the safety of the community, and respectful treatment of all parties.

XVIII. Academic Freedom

Le Moyne College supports and protects the principle of academic freedom. All members of the Le Moyne community have a right to use the academic forum provided by the College to discuss controversial subjects and express unpopular or unfamiliar ideas. However, under the shield of academic freedom, members of the community do not have the right to sexually harass others or engage in other acts of Sexual Misconduct. Nor may any member of the community implicitly or explicitly use the threat of filing a Sexual Misconduct report as a mechanism for the advancement of certain ideas and the silencing of others.

XIX. Recordkeeping

the maximum degree consistent with protection of the Le Moyne College community against future Sexual Misconduct. Records of information inquiries, reports and responses filed, notes and materials, and dispositions of cases will be maintained in a locked file by the Title IX Coordinator.

When a report is received, the Title IX Coordinator will check the file to determine whether a report has previously been recorded against the same individual, but not acted upon. If so, the officers may attempt to contact the earlier reporting party(ies) and any witnesses named in order to suggest the possibility of joint action or participation as a witness, while still maintaining appropriate levels of privacy. Such persons have the right to decline to participate, although the College may decide to move forward on its own. The Title IX Coordinator shall also use this file to determine whether previous findings have been reached involving the person complained against and may use that information as appropriate.

XX. Transcript Notation

In the event any student is found responsible for conduct which constitutes a crime of violence that must be reported under the Clery Act (including aggravated assault and sexual violence) and is suspended or expelled as a result, his/her transcript will note that they were suspended or expelled, as appropriate, for a finding of responsibility for a code of conduct violation (or words to that effect). A student who withdraws with such charges pending and does not participate through completion in any College process will have noted on his/her transcript that he/she withdrew with charges pending (or words to that effect). (The College reserves the right to process to completion a report filed against a student, and impose a sanction, notwithstanding his or her withdrawal.) Pursuant to the College's Policy on transcript notations, a student who has been suspended may be eligible to seek to have the notation removed, but not sooner than one year following completion of the suspension.

XXI. Clery Act Compliance

The College is required to include for statistical reporting purposes the occurrence of certain incidents in its Annual Security Report (ASR). Names of individuals involved in incidents are not reported or disclosed in ASRs. In the case of an emergency or ongoing dangerous situation, the College will issue a timely warning to the campus. In such circumstances, the name of the responding party may be disclosed to the community, but the name of the reporting party will not be disclosed.

XXII. Coordination with Other Policies

A particular situation may potentially invoke one or more College policies or processes. The College reserves the right to determine the most applicable Policy or process and to utilize that Policy or process. Without limiting the foregoing, the Review Panel has the authority to review allegations of collateral misconduct, meaning that it hears all allegations of Sexual Misconduct, but also may hear any allegations of additional conduct or Policy violations that

are alleged to have occurred as part of the same set of circumstances as the alleged Sexual Misconduct, even though those collateral allegations may not otherwise fall within the Review Panel's jurisdiction.

In cases where there are multiple reports and/or multiple respondents, the College reserves the right to handle the cases individually or jointly. Further, in cases where there are allegations of a violation of this Policy and collateral allegations of other Policy violations (e.g., an allegation of a non-consensual sexual contact and minor property damage), the College reserves the right to have allegation(s) of violations of this Policy and the collateral allegation(s) investigated and adjudicated pursuant to this Policy. In cases where the individual has more than one status with the College (such as a student who is also employed with the College, or any employee who takes courses at the College), the College will determine in its discretion which status is primary; in such a situation, sanctions imposed may include both sanctions related to each status.

This Policy does not apply to decisions relating to requests for reasonable accommodation due to a disability. Academic disability accommodations are handled by the Disability Accommodation office and pursuant to that office's policies.

XXIII. Delegation of Authority/Interpretation

The Title IX Coordinator may delegate any of his/her responsibilities and/or authorities under this Policy to a Deputy Title IX Coordinator, as appropriate.

The Title IX Coordinator may also delegate the authority of any other person with a role under this Policy to another appropriate (including appropriately trained) College official, including in order to avoid conflicts of interest or where time constraints or other obligations prevent a College official named in this Policy from fulfilling his/her designated role.

Final interpretation of any provision of these policies is vested in the Title IX Coordinator. Issues that are not specifically addressed in these policies may be resolved by the Title IX Coordinator.

XXIV. Time Limits

The Title IX Coordinator may extend any time limits provided for in this Policy for good reason.

XXV. Policy Compliance

Any person with a concern about the College's handling of a particular matter should contact the Title IX Coordinator.

The U.S. Department of Education, Office for Civil Rights is a federal agency responsible for ensuring compliance with Title IX. OCR may be contacted at 400 Maryland Avenue, SW, Washington, DC 20202-1100, 1-800-421-3481.

XXVI. Modification

This policy may be amended by the President in consultation with the Board of Trustees.

Appendix A

RIGHTS IN CASES INVOLVING SEXUAL ASSAULT, DOMESTIC/DATING VIOLENCE AND STALKING

Anyone reporting an incident of sexual assault, domestic or dating violence or stalking has the right to:

A. emergency access to a Title IX Coordinator or other appropriate official trained in interviewing victims of sexual assault who shall be available upon the first instance of disclosure by a reporting individual and who can provide information, including:

- (i) options to proceed, including the right to make a report to Campus Safety (reports to Campus Safety are reported to the Title IX Coordinator), Local Law Enforcement, and/or the New York State Police or choose not to report; to report the incident to the College; to be protected by the College from retaliation for reporting an incident; and to receive assistance and resources from the College, as set out in the Le Moyne College Sexual Harassment and Sexual Misconduct Policy, which can be found at www.lcmoyne.edu/studenthandbook.
- (ii) where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible;
- (iii) that the criminal justice process utilizes different standards of proof and evidence than the College's misconduct procedures and that any questions about whether a specific incident violated the penal law should be addressed to law enforcement or to the district attorney;
- (iv) whether the person they are reporting to is authorized to offer confidentiality or privacy; and
- (v) Any other reporting options.

B. If they are a student, to contact the College's Wellness Center for Health and Wellness Center of Counseling, where they may be offered confidential resources pursuant to applicable laws/policies and can be assisted in obtaining services for reporting individuals; if they are not a student but are otherwise a member of the College community, to contact non-College confidential resources, including:

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|---|--------------|
| (i) Vera House | 315-468-3260 |
| (ii) St. Joseph's Hospital Emergency Room | 315-448-5101 |
| (iii) University Hospital Emergency Room | 315-464-5611 |
| (iv) Crouse Hospital Emergency Room | 315-470-7411 |

C. Disclose confidentially the incident and obtain services from the state or local government;

D. Disclose the incident to the College's Responsible Administrators who can offer privacy or, in appropriate cases determined by the Title IX Coordinator, confidentiality, subject the College's Sexual Harassment and Sexual Misconduct Policy (which can be found at www.lcmoyne.edu/studenthandbook), and can assist in obtaining resources for reporting individuals;

E. File a report of sexual assault, domestic violence, dating violence, and/or stalking and consult the Title IX Coordinator and other appropriate College personnel for information and assistance. Reports shall be investigated in accordance with College Policy. A reporting

individual's identity shall remain private if that is what the reporting individual wishes, however privacy is not the same as confidentiality; private information can be shared to implement and fulfill the College's obligations under the law and its Sexual Harassment and Sexual Misconduct Policy and related Procedures;

F. Disclose, if the respondent is a College employee of the institution, the incident to Human Resources or to request that a private employee assist in reporting to Human Resources; and

G. Receive assistance from appropriate College representatives if interested in initiating legal proceedings in family court or civil court, such assistance to consist of facilitation in contacting appropriate local agencies (e.g., Vera House), who can provide direct assistance with court proceedings.

H. Withdraw a complaint or involvement from the College processes at any time, with the understanding that in appropriate cases, the College may nonetheless be required to proceed even if the reporting individual does not wish to do so.

Information about available resources, including intervention, mental health counseling and medical services that might be available to anyone reporting an incident can be found at www.Lemoyne.edu/assaultresources. In addition, information on sexually transmitted infections and sexual assault forensic examinations can be obtained from the Health Center, if a student, or from the Hospital's listed above, if an employee. Certain resources are also available to victims of crimes through the New York State Office of Victim Services, www.ovs.ny.gov.

Phone Numbers

From off campus, the Campus Security phone number is 445-4444 (fax: 445-6021).

From on-campus phones, dial:

Campus Security	x4444
Student Development	x4525
Campus Life and Leadership	x4520
Wellness Center (Health Services)	x4440
Wellness Center (Counseling Services)	x4195

Visit our Web site at: www.lemoyne.edu/wellness.

Physical and emotional health services for victims of sexual offenses can be accessed through the Wellness Center for Health and Counseling.

Information	x4100
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Off Campus:

Vera House (24-hour crisis response) (315) 468-3260

WELLNESS CENTER FOR HEALTH AND COUNSELING



The Wellness Center for Health and Counseling offers a variety of preventative and awareness programming throughout the year, especially in the area of sexual assaults. It maintains a resource library, as well as a Facebook page and Web page with additional resources, which includes steps to take in the event of an assault.

Every year incoming freshmen participate in a mandatory program related to sexual assault awareness and prevention. In addition, all area directors and resident advisors are trained by members of the Wellness Center for Health and Counseling in the area of sexual assault awareness and response strategies, including, but not limited to, medical attention, legal options and referrals.

In collaboration with a variety of campus partners, the Wellness Center for Health and Counseling conducts regular programming each semester on sexual assault prevention, safety, alcohol harm reduction, healthy relationships, relationship abuse and bystander intervention.

Regular training is provided to faculty and staff across the campus regarding identifying and supporting students in distress (including sexual assault) and supporting a climate of respect and sensitivity.

The Wellness Center for Health and Counseling also provides direct clinical counseling and health services to victims of sexual assault and domestic violence. During the academic year, victims can access Le Moynes confidential support and counseling in a crisis by calling 315-251-SAFE (7233). The center can also make referrals to our community resources for specialized care.

Counselor on Call - dispatched through Campus Security at (315) 445-4444

A professional counselor from Le Moynes Wellness Center for Health and Counseling is available during the academic year when classes are in session for emergency consultations. Campus Security will arrange for the counselor on call to contact the individual directly. All information will remain strictly confidential, except in life threatening emergencies. Non-emergency counseling is available to all students by contacting the Counseling Center at (315) 445-4195 during business hours. Services provided by the Wellness Center for Health and Counseling are free of charge and confidential.

SEX OFFENDER REGISTRY INFORMATION

In accordance with the Federal Campus Sex Crimes Prevention Act of 2000, Campus Security is providing a link to the New York State Sex Offender Registry. This law requires institutions of higher education to issue a statement advising the campus community where law enforcement information provided by the state may be obtained concerning registered sex offenders. It requires sex offenders already required to register in a state to provide notice, as required under law, of each institution of higher education in that state at which the person is employed, carries on a vocation, or is a student.

Members of the Le Moynes College community may obtain information concerning registered sex offenders by visiting the New York State Sex Offender registry's website at: www.criminaljustice.ny.gov/nsor.

Missing Persons

Campus Security will immediately accept and investigate every report of a missing person who resides in an on-campus student housing facility. The reporting person should immediately contact Campus Security by calling x4444 from an on-campus phone or (315) 445-4444. There is no prerequisite time limit before an individual can be reported missing and no specific individual who can report another missing.

If the initial investigation determines that the student is missing and has been missing for more than 24 hours or special circumstances warrant, local law enforcement will be notified.

Missing Person Contact

Every student living in an on-campus student housing facility is required to complete a “Key Card/Emergency Contact Form” with the Office of Campus Life and Leadership. This form also provides the option for students living in an on-campus student housing facility to provide a confidential missing person contact to be notified in the event a student is determined to be missing for more than 24 hours. We encourage all resident students to provide this missing person contact. If a student has identified such an individual, Le Moyne College will notify that individual no later than 24 hours after the student is determined to be missing. The missing person contact is confidential and this information will only be accessed by authorized campus officials and law enforcement officers in the furtherance of a missing person investigation.

If the student is under 18 years of age and is not an emancipated individual, Le Moyne College is required to notify the custodial parent or legal guardian after the determination has been made that the student has been missing for more than 24 hours.

Access to Campus Facilities

Most campus buildings and facilities are accessible to members of the campus community as well as guests and visitors during normal business hours (Monday through Friday, 8:30 a.m. to 4:30 p.m.). There are limited designated hours on Saturdays when the College is in normal operation. (This excludes most holidays.)

Residence halls however are locked 24 hours a day. Access is available to all authorized students and staff via an ID card access control system. Individuals not in possession of a valid ID must call either Campus Security or their host for admittance. Telephones are located at the main entrance to all residence halls.

Maintenance and Security of Campus Facilities

Le Moyne College maintains a very strong commitment to campus safety and security. Exterior lighting is an important part of this commitment. The motor vehicle parking lots, pedestrian walkways and building exteriors are well lighted. Informal surveys of exterior lighting on campus are conducted by Campus Security officers on a weekly basis. A comprehensive inspection of all exterior lighting is conducted by representatives of the Department of Security and Physical Plant at least twice a year. Members of the campus community are encouraged to report any exterior lighting deficiencies to the Campus Security at (315) 445-4444 (from on campus, dial x4444).

Campus Security and the Physical Plant representatives conduct weekly surveys of all exterior doors on campus. The purpose of this inspection is to ensure exterior doors and locking mechanisms are working properly. Exterior doors on campus buildings are locked and secured each evening by security officers. Deficiencies in door and security hardware are also reported by these security officers daily.

The security personnel routinely examine the grounds on campus to ensure that shrubbery, trees and other vegetation have been trimmed to reduce potential dangers.

There are no off-campus locations of student organizations recognized by the institution or any off-campus housing facilities of such student organizations.

SMOKE FREE/TOBACCO FREE POLICY

Inspired by the Jesuit commitment to cura personalis, Le Moyne College is committed to promoting a healthy and safe environment for students, faculty, staff and visitors. There is

considerable evidence that smoking and the use of tobacco products is harmful to those using the products, and with regard to smoke, to those in the proximity of smokers.

This policy is intended to reduce the health risks related to smoking, secondhand smoke and tobacco usage for the campus community.

Effective July 1, 2015, smoking and the use of tobacco products is prohibited on all property owned, leased or operated by Le Moyne College. This includes all indoor and outdoor campus spaces including but not limited to campus buildings, grounds, exterior open spaces, parking lots, on-campus sidewalks, streets, driveways, athletic facilities, practice facilities, recreational spaces and in all College owned or operated vehicles.

This policy applies to all individuals on the Le Moyne College campus, including students, faculty, staff, parents, and visitors, including vendors, contractors and service providers.

Smoking is defined as the burning of tobacco or any other material in any type of smoking equipment, including but not limited to cigarettes, cigars, pipes, hookahs, e-cigarette devices and electronic nicotine delivery systems.

Tobacco products are defined as any and all forms of tobacco and smokeless tobacco, including but not limited to cigarettes, cigars, snuff, dipping tobaccos, pouches, dissolvable tobaccos, tobacco waters and pastes.

Members of the Le Moyne community who do not comply with the policy will be addressed, reminded of the importance of compliance and referred to the informational materials available regarding how to comply with this policy and to cessation materials.

Members of the Le Moyne College community who refuse to comply with this policy may be subject to corrective action through the applicable process. Faculty and staff members alleged to be in violation of the policy are subject to corrective action as administered by the Office of Human Resources. Students alleged to be violating the policy are subject to corrective action through the appropriate student conduct process as administered by the Division of Student Development. Visitors, including vendors, contractors and any service providers, will be subject to whatever remedies are available to the College and administered by the Department of Campus Security or other appropriate office.

In accordance with the applicable law and Le Moyne College policy, any individual can voice objections to potential violations of this policy in an appropriate manner without fear of retaliation.

FIRE SAFETY

Le Moyne College is committed to providing a safe and secure campus. Fire safety is a key component to achieving that goal and requires a coordinated effort from the entire campus community. All fire incidents should be reported to Campus Security immediately (x4444).

In an effort to minimize the potential for fires in our on-campus housing facilities, Le Moyne College has strict policies that are enforced by campus life and leadership staff and Campus Security. Health and safety inspections are conducted twice a semester in every residence housing facility in an effort to identify any potential problems or prohibited items. Violations are referred to the Office of Judicial Affairs.

Due to Le Moyne's unique geographic location, which includes six residence halls, 15 apartment style housing units and several residential housing units. The campus is protected by three fire departments: the Syracuse Fire Department, DeWitt Fire Department and East Syracuse Fire Department.

STUDENT HOUSING EVACUATION PROCEDURES

- When the fire alarm sounds, all persons must evacuate the building.
- Do not use elevators.
- Shut and lock your door when you leave.
- Take your key with you.
- Move well away from the building to allow emergency responders room to work.
- Do not re-enter the building until instructed to do so by emergency personnel or security.

In case of fire

- If you see a fire pull the alarm
- Exit the building using the nearest exit (always have two exit points)
- Be familiar with stairwells and where they lead to
- Do not use elevators
- Do not attempt to extinguish the fire yourself
- If you hear the fire alarm exit the building immediately
- If you have pertinent information about the fire call security at 445-4444

CANDLES AND PORTABLE ELECTRICAL DEVICES

- Candles and Incense: Candles and incense are not permitted in any on-campus residence facility or apartment. Candles and incense will be confiscated and disposed of properly. Residents found with a candle and/or incense in their room/suite/townhouse/apartment will be subject to a \$50.00 fine.
- Portable Electrical Appliances: Students who bring appliances such as television sets, stereos, microwaves, irons and sewing machines should make sure they are in good working order. Extension cords or multiple plugs are not permitted. Any special requirements should be discussed with the residence hall or Physical Plant staff. It is a good practice to keep all appliances disconnected when not in use. During severe electrical storms, this practice is especially important. The rooms and suites were not designed for cooking. Since cooking and open coil appliances can be extremely dangerous, the following items are not permitted on campus in any student rooms or suites: coffee pots, hotplates, sandwich makers, toaster ovens and electric grills.

Residents at the townhouses, Le Moyne Heights and Le Moyne View may use any of the above in their kitchen area only. When using kitchen facilities, students are reminded not to leave any cooking items unattended. Students found to have left cooking items unattended will be subject to disciplinary action. Space heaters and propane tanks are not allowed in any residential area. Outdoor grills must be at least 15 feet from any building.

NEW YORK STATE FIRE INSPECTIONS

On a yearly basis, the New York State Office of Fire Prevention and Control conducts inspections on campus to include academic buildings, residence halls, student rooms and mechanical rooms. These inspections are based on the NYS Fire and Property Maintenance Code and National Fire Protection Association standards. Additionally, if any violations are found, the Office of Fire Prevention and Control will conduct a follow-up inspection to ensure that all violations have been corrected.

ANNUAL FIRE SYSTEM INSPECTIONS

Our fire safety systems in each on campus residential facility are inspected annually by New York state-licensed inspectors. During these inspections, all components of the fire

safety system are checked for proper function ability. These tests include the fire panel, heat detectors, smoke detectors, audible horns, strobes, battery backup, etc. Every device associated with the buildings fire safety system is tested.

Also, every fire extinguisher on campus is checked in order to verify the fire extinguisher is in its proper location, is readily accessible, and is full and free of defects. Inspections are conducted monthly, yearly and every five years as required by law.

FIRE AND SAFETY REGULATIONS

It is essential that all students become familiar with the stairways and all exit doors from the residence halls. The location of fire extinguishers should be carefully noted. In the event that a fire is noticed anywhere on campus, the fire alarm should be pulled, then Campus Security (x4444) should be called immediately from a safe location and given the exact location of the fire. The dispatcher will contact and dispatch security personnel and the appropriate fire department.

Meetings are held during the academic year at which fire drill procedures are explained. Failure to exit a building during a fire alarm is a violation of New York state law. Disciplinary action and a fire safety fine may be imposed for failure to respond to a fire alarm. Any student found to have falsely initiated a fire alarm will be subject to strict disciplinary sanctions.

FIRE SAFETY EDUCATION

All incoming freshmen attend a fire safety presentation. Instructors discuss what participants should expect and discuss the proper evacuation procedures.

Campus Life and Leadership staff, as well as Campus Security personnel, provide yearly training to all area directors and resident advisors in the area of fire safety and emergency response. Proper evacuation procedures are discussed, along with an overview on how the automatic fire sprinkler system operates, as well as hands-on fire extinguisher training for all campus life and leadership staff.

During the first week of school, resident advisors review fire safety protocols at hall meetings with all students living in on campus housing.

FIRE DRILLS

In accordance with the New York State Fire Code, fire drills are conducted a minimum of four times per year in all residence halls and three times a year in all non residential facilities. Additional fire drills are also required during the summer for students, organizations and camps utilizing on campus residential housing. All fire drills are coordinated by Campus Security to ensure compliance and that proper evacuation procedures are being followed. All fire drills are documented for the New York State Fire Inspections, which are conducted annually.

It is imperative that you evacuate the building immediately every time the fire alarm is activated.

KERRY ROSE SPRINKLER NOTIFICATION ACT OF 2013

The Kerry Rose Fire Sprinkler Notification Act of 2013 requires the College to provide a written fire safety notification to each student living in a college-owned or operated housing facility, both on and off campus. The notification consists of a description of the fire safety system for the student's housing facility, including whether or not the housing facility is equipped with a fire sprinkler system. The notification also includes information on how to access the College's campus fire safety report required by federal law.

2015 Fire Safety Systems in Student Housing

Residence Halls	Proprietary fire alarm system	Full sprinkler system	Smoke detection	Fire extinguishers	Evacuation plans posted	Yearly fire drills
Dablon Hall	X	X	X	X	X	8
Foery Hall	X	X	X	X	X	5
Harrison Hall	X	X	X	X	X	4
Mitchell Hall	X	X	X	X	X	4
Nelligan Hall	X	X	X	X	X	4
St. Mary's Hall	X	X	X	X	X	6
Le Moyne Heights 1	X	X	X	X		4
Le Moyne Heights 2	X	X	X	X		4
Le Moyne Heights 3	X		X	X		4
Le Moyne Heights 4	X		X	X		4
Le Moyne View 1	X		X	X		4
Le Moyne View 2	X		X	X		4
Townhouse 1	X		X	X		4
Townhouse 2	X		X	X		4
Townhouse 3	X		X	X		4
Townhouse 4	X		X	X		4
Townhouse 5	X		X	X		4
Townhouse 6	X		X	X		4
Townhouse 7	X		X	X		4
Townhouse 8	X		X	X		4
Townhouse 9	X		X	X		4
307 Springfield Road			X	X		4
315 Springfield Road	X		X	X		4
525 Springfield Road	X		X	X		4
537 Springfield Road	X		X	X		4
5809 Thompson Road	X		X	X		4
5813 Thompson Road	X		X	X		4
5823 Thompson Road	X		X	X		4
543 Fayette Blvd			X	X		4

x = included

Please contact the Office of Student Development at (315) 445-4525 if you have any questions with the above information.

2015 On Campus Student Housing Fires

Residential Facilities	Total fires in each building	Case #	Date	Time	Number of injuries	Number of deaths	Cause of fire	Value of property damage
Dablon Hall	0							
Foery Hall	0							
Harrison Hall	0							
Mitchell Hall	0							
Nelligan Hall	0							
St. Mary's Hall	0							
Le Moyne Heights 1	0							
Le Moyne Heights 2	0							
Le Moyne Heights 3	0							
Le Moyne Heights 4	0							
Le Moyne View 1	0							
Le Moyne View 2	0							
Townhouse 1	0							
Townhouse 2	0							
Townhouse 3	0							
Townhouse 4	0							
Townhouse 5	0							
Townhouse 6	0							
Townhouse 7	0							
Townhouse 8	0							
Townhouse 9	0							
307 Springfield Rd	0							
315 Springfield Rd	0							
525 Springfield Rd	0							
537 Springfield Rd	0							
5809 Thompson Rd	0							
5813 Thompson Rd	0							
5823 Thompson Rd	0							
543 Fayette Blvd	0							

Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act)

This Annual Campus Security and Fire Safety Report are produced in compliance with the Clery Act. It is designed to provide a comprehensive review of campus crime statistics, policies, services and resources that aid in the prevention of crime and overall safety of the Le Moyne Community. You will also find in the annual report Le Moyne College's crime statistics for the past three years. Crime statistic information may also be obtained directly from the United States Department of Education's website at: <http://ope.ed.gov/security>. This report is also available at www.lemoyne.edu/security or by written request.

Campus Security Authority

The Jeanne Clery Act mandates that certain crimes are reported for inclusion in the annual security report. In an effort to achieve the most accurate statistics possible The Jeanne Clery Act has identified Campus Security Authorities as mandated reporters. Campus Security Authority is a Clery specific term that encompasses four groups of individuals:

- A campus police or security department
- Any individual(s) who have responsibility for campus security, but do not constitute a campus police or security department
- Any individual or organization specified in an institutions statement of campus security policy as an individual or organization to which students and employees should report criminal offenses.
- An official of an institution who has significant responsibility for student and campus activities, including but not limited to, student housing, student discipline and campus judicial proceedings.

Clery Exemption for Pastoral and Professional Counselors

There are two types of individuals who, although they have significant responsibility for student and campus activities, are not campus security authorities under Clery:

- **Pastoral counselor:** A person who is associated with a religious order or denomination is recognized by that religious order or denomination as someone who provides confidential counseling, and is functioning within the scope of that recognition as a pastoral counselor.
- **Professional counselor:** A person whose official responsibilities include providing mental health counseling to members of the institutions community and who is functioning within the scope of his or her license or certification.

Important Phone Numbers

From off campus, the Campus Security phone number is (315) 445-4444 (fax: 445-6021).

From on-campus phones, dial:

Campus Security	x4444
Student Development	x4525
Campus Life and Leadership	x4520
Wellness Center (Health Services)	x4440
Wellness Center (Counseling Services)	x4195

Visit our Web site at: www.lemoyne.edu/wellness.

Physical and emotional health services for victims of sexual offenses can be accessed through the Wellness Center for Health and Counseling.

Information	x4100
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Greatness meets Goodness

WWW.LEMOYNE.EDU

PREPARED BY THE LE MOYNE COLLEGE SECURITY DEPARTMENT IN 2016.