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Sexual Assault Special Section



SECTION I

All policies in this document apply equally to all members of the LIBI community. The following selected terms are defined in an effort to facilitate a more thorough understanding of the institutional Code of Conduct and policies herein.

"Institution" shall mean any college or university chartered by the regents or incorporated by special act of the legislature that maintains a campus in New York. In this document, "institution" refers to the Long Island Business Institute (LIBI).

"Title IX Coordinator" shall mean the Title IX Coordinator and/or his or her designee or designees. Higher education institutions receiving federal funding are required to designate a coordinator who is responsible for ensuring the school complies with Title IX. Individuals serving in this role are the key to helping create a campus that is free from sexual violence and discrimination and that welcomes and supports all students. Title IX Coordinators oversee the prompt investigation of complaints alleging sexual harassment; review findings as to whether sexual harassment occurred; review proposed remedies (including interim measures) necessary to address the sexual harassment, eliminate any hostile environment, and prevent its reoccurrence; and serve as consultants to any disciplinary hearing panel where sexual harassment has been determined to have occurred to ensure LIBI's compliance with Title IX.

"Bystander" shall mean a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of the rules or policies of LIBI.

"Code of Conduct" shall mean the written policies adopted by an institution governing student behavior, rights, and responsibilities while such student is matriculated in LIBI.

"Confidentiality" means the condition of not wishing to have information passed on to anyone else. Confidentiality may be offered by an individual who is not required by law to report known incidents of sexual assault or other crimes to institution officials, in a manner consistent with state and federal law, including but not limited to 20 U.S.C. 1092(f) and 20 U.S.C. 1681(a). Licensed mental health counselors, medical provider and pastoral counselors are examples of institution employees who may offer confidentiality.

"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 and other applicable laws, including informing appropriate institution officials.

"Accused" shall mean a person accused of a violation who has not yet entered an institution's judicial or conduct process.

"Respondent" shall mean a person accused of a violation who has entered an institution's judicial or conduct process.

"Reporting individual" shall encompass the terms victim, survivor, complainant,

claimant, witness with victim status, and any other term used by an institution to reference an individual who brings forth a report of a Title IX violation. When a student, faculty, or staff member believes that she or he has been a victim of misconduct perpetrated by another member of the LIBI community, the victim will have the same rights under the Code of Conduct as are provided to the accused or respondent.

"Sexual activity" shall have the same meaning as "sexual act" and "sexual contact" as provided in 18 U.S.C. 2246(2) and 18 U.S.C. 2246(3).

"Sexual contact" means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

"Sexual act" means— (A) contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight; (B) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; (C) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or (D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

"Sexual assault" The term "sexual assault" means any nonconsensual sexual act proscribed by Federal or State law, including when the victim lacks capacity to consent. Falling under the definition of sexual assault are sexual activities as forced sexual intercourse, rape, sexual coercion, forcible sodomy, child molestation, incest, fondling, and attempted rape.

"Sex discrimination" involves treating someone (an applicant or employee) unfavorably because of that person's sex. Discrimination against an individual because of gender identity, including transgender status, or because of sexual orientation is discrimination because of sex in violation of Title VII. It is unlawful to harass a person because of that person's sex. Harassment can include "sexual harassment" * or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. Harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person's sex. For example, it is illegal to harass a woman by making offensive comments about women in general. Both victim and the harasser can be either a woman or a man, and the victim and harasser can be the same sex. The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, an instructor, another student, or someone who is not an employee of the college, such as a vendor. All acts of sex discrimination, including sexual harassment and sexual violence, are prohibited by Title IX.

* **Sexual harassment** is unwelcome, gender-based verbal or physical conduct that is sufficiently severe, persistent or pervasive that it unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the college's educational program and/or activities, and is based on power differentials (quid pro quo), the creation of a hostile environment, or retaliation.

“Sexual exploitation” is non-consensual abuse or exploitation of another person’s sexuality for the purpose of sexual gratification, financial gain, personal benefit or advantage, or any other illicit purpose. Acts of sexual exploitation include, but are not necessarily limited to: • Non-consensual streaming, sharing, or distribution of images, photography, video, or audio recording of sexual conduct, nudity, or state of undress when and where there is a reasonable expectation of privacy, without the knowledge and affirmative consent of all participants; • Observing, photographing, videotaping, or making any other visual or audio recording of sexual conduct or nudity or state of undress when and where there is a reasonable expectation of privacy, without the knowledge and affirmative consent of all participants; • Exposing one’s genitals in non-consensual circumstances; or • Inducing incapacitation for the purpose of making another person vulnerable to sexual misconduct.

“Domestic violence” includes asserted violent misdemeanor and felony offenses committed by the victim’s current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.

“Dating violence” means violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction. Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

“Stalking” means intentionally engaging in a course of conduct, directed at a specific person, which is likely to cause a reasonable person to fear for his or her safety or the safety of others or cause that person to suffer substantial emotional damage. Stalking may take many forms, waiting for, monitoring, and/or pursuing contact. Stalking may occur in person or through telephone calls, text messages, unwanted gifts, letters, e-mails, surveillance, or other types of observation and communication.

“On campus” shall be defined as campus and is defined in Higher Education Act (Clery Act), 20 U.S.C. section 1092(f)(6)(A)(ii).

“Off campus” shall be defined as any location not included in the definition of on campus.

“Student Conduct Officer” provides students with an overview of the conduct process and informs students of their rights and responsibilities as outlined in the Student Code of Conduct. Presents the accused with information concerning the alleged policy violation and is authorized to determine the appropriate resolution of an alleged violation of the Student Code of Conduct, and/or to impose sanctions or other remedies as appropriate. Upon investigating complaints of alleged violation of the Student Code of Conduct, the Student Conduct Officer may decline to pursue a complaint; may refer the parties involved to mediation or other appropriate resources; may move to conduct a hearing; may impose sanctions with/without a hearing; and may advise a disciplinary hearing panel as necessary or appropriate.

“Business day” means any day except any Saturday, any Sunday, any day which is a federal legal holiday in the United States or any day on which banking institutions in the State of New York are authorized or required by law or other governmental action to close. Typically, the day covers the period from 9 a.m. to 5 p.m.

“Designee” refers to a staff or faculty member who has responsibility for implementing the Student Conduct process or administering the Student Conduct system, in part or in whole.

“Member of the College community” includes any individual who is a matriculated or non-matriculated student taking classes, student employee, faculty, staff; any other person working for the college, such as vendors or contractors.

“Advisor” means a support person who accompanies a respondent or reporting individual for the limited purpose of providing support, advisement, and guidance in cases involving sexual assault, domestic violence, dating violence, stalking, or any other sexual misconduct. A support person may not directly address the hearing panel, question witnesses, or otherwise actively participate in the student conduct process.

“College official” refers to any person employed by LIBI to perform administrative or instructional duties.

“College premises” includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the College, either solely or in conjunction with another entity.

“Bystander” refers to an individual who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of rules or policies of the college.

“Bystander intervention” are safe and positive actions to prevent harm or intervene when there is a risk posed to another person. Bystander intervention includes recognizing situations of potential harm, identifying safe and effective intervention options, and taking action to intervene.

“Preponderance of the evidence” is the standard of proof used by the conduct hearing panel whereby a respondent will be held liable if fact finders and members of the panel believe that the respondent has more likely than not engaged in the conduct giving rise to liability/responsibility. LIBI uses the “more likely than not” standard in cases where sexual or interpersonal violence is alleged. If the standard is met the respondent will be found responsible.

“Amnesty” The health and safety of every student at LIBI is of utmost importance. LIBI 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. LIBI strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to institution officials. A bystander acting in good faith or a reporting individual acting in good faith who discloses any incident of domestic violence, dating violence, stalking, or sexual assault to LIBI’s officials or law enforcement will not be subject to LIBI’s code of conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault. Nothing in this section shall be construed to limit LIBI’s ability to provide amnesty in additional circumstances.

“**Consent**” must be knowing, voluntary, and mutual. 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.

“**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, providing 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 a person is incapacitated, which occurs when an individual lacks the ability to choose knowingly 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.

SAFETY, SEX DISCRIMINATION, SEXUAL MISCONDUCT, AND REPORTING

LIBI seeks to create and to maintain a safe environment in which all members of the college community – students, faculty, and staff – can learn and work free from the fear of sexual assault and other forms of violence.

The following sections explain how LIBI handles student complaints involving sexual misconduct, harassment, and claims of discrimination based on sex. The applicable federal and state laws governing LIBI’s policies also are explained in the sections below. Please **read this very carefully** and ask your academic advisor to clarify any of the sections for which you may have questions. **We want to make sure you understand your rights as a student, LIBI’s policies, and other issues related to sexual harassment, gender harassment, and sexual violence.**

All incoming LIBI students are required to attend awareness workshops and seminars on sexual assault, domestic violence, and stalking prevention provided by the college. LIBI asks that all students take this requirement seriously because knowledge and awareness are the best sources of prevention and empowerment.

WHY DO ALL INCOMING STUDENTS HAVE TO PARTICIPATE?

It is a requirement under Article 129-A of NYS Education Law (§ 6430 – 6436) that colleges in New York State must inform incoming students about sexual assault prevention measures through programs which may include workshops, seminars, discussion groups, and film presentations, in order to disseminate information about sexual assault, promote discussion, encourage reporting of incidents of sexual assault, and facilitate prevention of such incidents. LIBI educates incoming students about sexual assault during mandatory new student orientation. Faculty and staff receive training in Educational Law 129-B during annual Professional Development training.

In compliance with section 6447, LIBI offers to all students general and specific training in domestic violence, dating violence, stalking and sexual assault prevention. The college also conducts ongoing training and awareness building activities that comply with the Violence Against Women Act, 20 U.S.C. 1092(f). LIBI also, as appropriate, provides specific training to include groups such as international students, students with limited English proficiency, students who are also employees, and members of groups that the college identifies through climate surveys as high-risk populations.

The goal of this section is to help you understand what sexual harassment means, what is sex discrimination, and what constitutes sexual misconduct. This section also explains what to do and who to talk to in the community if you or others experience these things.

LIBI strives to work together with state and city organizations to develop and offer interesting and useful training opportunities. In addition to workshops and speaker forums, the college uses a variety of methods to educate students about violence prevention.

WHAT WILL I LEARN?

LIBI's awareness building efforts ensure that students are informed about the applicable laws, ordinances, and regulations on sex offenses; the penalties for commission of sex offenses; the procedures in effect at the campus for dealing with sex offenses; the availability of counseling and other support services for the victims of sex offenses; the nature of and common circumstances relating to sex offenses on college campuses; and the methods the campus employs to advise and to update students about safety procedures.

Education Law 129-B is not limited in any way by the geographic reporting categories of the Clery Act. The rights and responsibilities of Article 129-B law apply based on identity of the reporting individual and/or accused/respondent, not based on the geographic location of the violation.

A "bystander" is a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of rules or policies of the college. A bystander does not become a "reporting individual" when he or she brings forth a report. He or she remains a bystander.

LIBI's "Code of Conduct" includes all written policies adopted by the college that govern student behavior, rights, and responsibilities while such student is matriculated in the college.

BY PARTICIPATING IN LIBI'S AWARENESS BUILDING PROGRAMS, STUDENTS WILL LEARN:

- That LIBI prohibits sexual and interpersonal violence and will offer resources to any victim and survivor of such violence while taking administrative and conduct action regarding any accused individual within the jurisdiction of the college;
- That policies apply equally to all students 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 conviction;
- That the policies apply regardless of whether the violation occurs on campus or off campus.
- Relevant definitions including, but not limited to the definitions of sexual assault, domestic violence, dating violence, stalking, confidentiality, privacy, and affirmative consent;
- The role of the Title IX Coordinator, and other institutional employees who can help with domestic violence, dating violence, stalking, and sexual assault prevention and response;
- The short- and long-term impact of violence on victims and survivors;
- How to take appropriate action as a bystander and the importance of doing so to prevent violence when it can be done safely;
- The importance of risk assessment and reduction, including drug and alcohol use and the role those play in increasing incidents of violence and sexual misconduct;
- The institutional sanctions and potential legal ramifications for individuals who violate the code of conduct or commit crimes of violence;
- Who at the college can answer general or specific questions about risk reduction, seeking legal help, reporting individuals, and seeking healing help?
- That colleges have a separate and independent responsibility to investigate violations when required by law, regardless of whether a reporting individual or any other witness chooses to participate in the institution's process and regardless of a decision within the criminal justice process whether or not to proceed investigate.

HOW DO I FIND OUT WHAT CRIMES HAVE BEEN REPORTED AT LIBI?

Each year LIBI files campus crime statistics with the United States Department of Education as required under [20 US 1092\(f\)](#). Each LIBI location has its own Committee on Campus Safety that can provide upon request all campus crime statistics as reported to the United States Department of Education. Students and anyone else who is interested can also obtain LIBI's campus crime statistics from the Director of Operations & Institutional Effectiveness by e-mailing the request to claw@libi.edu or by calling **212-226-7300 ext. 349**. Within ten days of the request, the Director will mail to the individual a hard copy of the statistics that the campus is required to report under 20 US 1092(f).

Students are encouraged to visit [United States Department of Education's](#) web site for campus crime statistics. The website can be accessed here: <https://ope.ed.gov/campussafety/#/>

The annual crime statistics are also e-mailed to the college community along with LIBI's Safety and Security Policies and Procedures.

More information can be obtained below:

https://www.ecfr.gov/cgi-bin/text-idx?SID=915c4528a072d83493a1ddd05151ce4f&mc=true&node=se34.3.668_146&rgn=div8

WHAT IF THE SEXUAL HARASSMENT, DISCRIMINATION, OR SEXUAL MISCONDUCT IS DUE TO BIAS?

Part of LIBI's crime prevention efforts includes informing all incoming students about bias-related crime and prevention measures through programs that include workshops, seminars, discussion groups, and film presentations. This programming is offered with the explicit goal of disseminating information about bias related crime, promoting discussion, encouraging reporting of incidents of bias related crime, and facilitating prevention of such incidents. The information includes, but is not limited to the applicable laws, ordinances, and regulations on bias related crime, including the provisions and coverage of the Hate Crimes Act of 2000 codified in article 485 of the penal law; the penalties for commission of bias related crimes; the procedures in effect at the college for dealing with bias related crime; the availability of counseling and other support services for the victims of bias related crime; the nature of and common circumstances relating to bias related crime on college campuses; and the methods the campus employs to advise and to update students about safety procedures.

WHO SHOULD I TALK TO IF ANY OF THESE THINGS HAPPEN TO ME OR IF I WITNESS ANY OF THESE BEHAVIORS?

Every LIBI campus designates a person who has special training in helping students who are facing issues related to sexual harassment and sexual violence. This person is referred to as the Title IX Coordinator. The responsibilities of the Title IX Coordinator include overseeing all complaints of sex discrimination and identifying and addressing any patterns or systemic problems that arise during the review of such complaints.

All students are strongly encouraged to contact the Title IX Coordinator for guidance or information.

The Title IX Coordinators are:

FLUSHING CAMPUS

Adriana Arguelles
136-18 39th Ave
Flushing, NY 11354
718-939-5100 ext. 114
aarguelles@libi.edu

COMMACK CAMPUS

Audrey Sumner
6500 Jericho Turnpike
Commack, NY 11725
631-499-7100 ext. 19
asumner@libi.edu

NYC EXTENSION

April Robinson
232 West 40th Street
New York, NY 10018
212-226-7300 ext. 347
arobinson@libi.edu

All inquiries concerning Title IX should be referred to LIBI's Title IX Coordinators. Students who have addressed their grievance to the Title IX Coordinator and to the Provost but still feel their case has not been properly addressed may contact the Office for Civil Rights (OCR).

U.S. Department of Education Office for Civil Rights

Lyndon Baines Johnson Department of Education Bldg.
400 Maryland Avenue, SW
Washington, DC 20202-1100

Telephone: 800-421-3481
FAX: 202-453-6012; TDD: 800-877-8339

Email: OCR@ed.gov

**New York Office
Office for Civil Rights
U.S. Department of Education**

32 Old Slip, 26th Floor
New York, NY 10005-2500

Telephone: 646-428-3900
FAX: 646-428-3843; TDD: 800-877-8339

Email: OCR.NewYork@ed.gov

**WHY DOES LIBI EXPECT ME TO FILL OUT SUCH A PERSONAL
“CAMPUS CLIMATE” SURVEY?**

One of the main goals of the Campus Climate Survey is to generate school-specific data to improve institutional responses, including targeted prevention, intervention, support for victims, and accountability for offenders.

Sexual assault, domestic violence, dating violence, and stalking are serious problems on college and university campuses. Campus climate surveys are essential because they generate data on the nature and extent of sexual assault as it exists at LIBI. The surveys also provide data on the attitudes and perceptions about sexual assault among different campus groups which help LIBI direct resources where they are most needed. In general, when schools have a clear understanding of the climate around sexual assault as it actually exists on their campuses, they are in a better position effectively to prevent and respond to incidents of campus sexual assault.

The survey asks a series of questions that address students’ experiences with sexual victimization both before and after joining LIBI. The survey also tries to determine the knowledge students have of the policies and procedures in place at LIBI for reporting incidents, and the perceptions students have about how well campus authorities and local law enforcement handle reports of sexual assault. The survey also aims to determine the frequency and nature of sexual assault experienced by students on campus.

We hope that the act of conducting the Climate Surveys can in itself have a positive effect on the campus climate because it reflects LIBI’s genuine commitment to combat campus sexual assault.

LIBI is aware of the deeply personal aspect of the survey and understands the reluctance students may feel answering it. It is the hope of the college that students will see the direct benefits that the community will receive from the data generated. LIBI also hopes that by seeing the commitment of the college to addressing sexual violence, victims may feel more comfortable coming forward to report incidents. When victims come forward, it can help them heal from the trauma and get better access to support services (such as counseling). The surveys are voluntary, anonymous, and they are not linked to the student’s college profile in any way. LIBI does not ask students to log in with personally identifiable information, such as an e-mail address or student ID number and no identifying information is stored with or linked to individual survey data. The survey is programed so that IP addresses are not collected when individuals participate in the survey.

**WHAT HAPPENS AFTER A CAMPUS CLIMATE SURVEY HAS BEEN COMPLETED AND THE
RESULTS DISSEMINATED?**

As discussed, the main purpose of a Campus Climate survey is to generate valid campus-specific data that schools can use to develop targeted and effective prevention and response efforts. The real benefit to conducting a survey is the campus action plan that is developed as a result of the information gained from the survey. The aggregated Campus Climate surveys serve as the foundation of a comprehensive campus sexual assault action plan for the college. The aggregated surveys help uncover any blind spots in existing institutional responses to campus sexual assault. They also reveal whether students perceive certain campus environments or populations as hostile and help to identify student populations most at risk for sexual assault. In addition, the aggregated results help LIBI better understand whether students feel comfortable reporting incidents of sexual assault to school officials and show the level of knowledge that students have about campus resources for victims. Institutional results of the survey also bring to light any confusion about policies and procedures related to campus sexual assault, including how and where to report incidents. Each of these findings help LIBI become a safer and more productive place to learn and to work for everyone.

Because of the schedule cycle of the surveys, most students will be asked to take the survey twice during their time at LIBI. Participation is voluntary. It is important, however, to understand that the regular administration of Campus Climate surveys can show changes over time, such as decreases in sexual assaults and increases in awareness or reporting, which help the college measure whether our prevention and response efforts are working. Campus Climate surveys also can help build trust with students and faculty, creating an environment where students feel more comfortable reporting incidents of sexual assault. Having students who feel comfortable reporting sexual assault on campus enables colleges and local law enforcement to deal with serial perpetrators and helps victims heal from trauma, stay in school, and feel confident in the school's handling of the assault.

WHAT EXACTLY IS AFFIRMATIVE CONSENT?

Affirmative Consent to Sexual Activity (Section 6441): is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, providing 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 must be KNOWING, VOLUNTARY, and MUTUAL.

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.

IMPORTANT TO UNDERSTAND:

- 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 a person is incapacitated, which occurs when an individual lacks the ability knowingly to 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.**

Consent is ALWAYS required regardless of whether the person has been drinking or is under the influence of drugs.

IS AFFIRMATIVE CONSENT DIFFERENT FROM VOLUNTARY CONSENT?

Consent, no matter which word proceeds it, **MUST BE** knowing, voluntary, and mutual.

Voluntary consent means that **consent under coercion such as a threat of violence is not consent.** Mutual means that all parties must consent.

DOES CONSENT HAVE TO BE VERBAL?

There is no requirement under the definition of consent that there be "verbal" consent or a specific statement of "yes". To require a verbal statement would be to exclude hearing and speaking impaired students from consenting to sexual activity. **Consent can be given through words or actions so long as the word or action is clear regarding willingness to engage in the sexual activity.** The legislation says that silence "in and of itself" is not consent; a reporting individual failing to say no or actively to resist is not a defense to a charge of sexual activity without consent.

Consenting to ONE TYPE of sexual act or contact is NOT a blanket CONSENT to any and all types of sexual contacts.

WHY AM I IN TROUBLE? WE HAD SEX BEFORE!

Consent can be given through words or actions that clearly display permission to proceed.

Although it is common for individuals to engage in multiple sexual acts or sexual contacts during a brief time period, **each party must consent affirmatively to participating in each sexual act or sexual contact.** Consenting to one type of sexual act or contact is not a blanket consent to any and all types of sexual contacts. Mutual consent is required for each and may be withdrawn at any time by either party. **When consent is withdrawn, the activity must stop.** When consent no longer can be given, or when the individual who initially consents to the activity but during the course of the activity falls asleep or otherwise becomes unconscious or incapacitated, the other party must stop the sexual activity or contact. **Being intoxicated is not a license to engage in sexual activity with another person without their consent.**

Students who are charged in the student conduct process with initiating sexual activity or contact without the consent of another party, cannot use as a defense that they themselves were under the influence of drugs and/or alcohol at the time they committed the violation.

INDIVIDUALS WHO ARE INCAPACITATED CANNOT CONSENT TO SEXUAL ACTIVITY OR CONTACT

Students accused of sexual misconduct where incapacitation is a factor will face a hearing and an internal investigation. It must be noted that there is no single standard or number of drinks that leads to incapacitation. This level varies for different people, and may depend in part on the individual's age, gender, height, weight, metabolism, and whether and how much they have eaten recently.

This is not to say that all individuals cannot affirmatively consent to sexual activity or contact when they have been drinking or using drugs. Some individuals may still consent affirmatively through words or actions that clearly indicate interest in engaging in the activity. This provision pertains to someone who is unconscious, asleep, or involuntarily restrained and thereby CANNOT consent to sexual activity.

Minors who cannot consent under New York's laws covering age of consent are considered incapacitated for purposes of §6441(2)(d) (See New York Penal Law Article 130 et seq.).

IMPORTANT TO UNDERSTAND:

Someone who is unconscious, asleep, or involuntarily restrained cannot consent to sexual activity.

DOMESTIC VIOLENCE

The following information is taken from the National Domestic Violence HOTLINE (thehotline.org). If any of the information or signs discussed in this section ring true for you, please call at 1-800-799-7233 or chat with a representative of hotline.org online 24/7/365. The advocates are there for support and listen to you.

Abuse does NOT have to be PHYSICAL, it CAN also be EMOTIONAL.

You may be in an emotionally/verbally abusive relationship if you partner exerts control through:

- Calling you names, insulting you, or continually criticizing you
- Refusing to trust you and acting jealous or possessive
- Trying to isolate you from family or friends
- Monitoring where you go, who you call, and with whom you spend time
- Demanding to know where you are every minute
- Trapping you in your home or preventing you from leaving

GET HELP:
National Domestic
Violence Hotline
1-800-799-7233
1-800-787-3224 (TTY)
En Español
1-800-799-7233
o el número TTY (línea
telefónica de texto para
personas con problemas
de la audición y del habla)
1-800-787-3224

- Using weapons to threaten to hurt you
- Punishing you by withholding affection
- Threatening to hurt you, the children, your family, or your pets
- Damaging your property when they're angry (throwing objects, punching walls, kicking doors, etc.)
- Humiliating you in any way
- Blaming you for the abuse
- Accusing you of cheating and being often jealous of your outside relationships
- Serially cheating on you and then blaming you for his or her behavior
- Cheating on you intentionally to hurt you and then threatening to cheat again
- Cheating to prove that they are more desired, worthy, etc. than you are
- Attempting to control your appearance: what you wear, how much/little makeup you wear, etc.
- Telling you that you will never find anyone better, or that you are lucky to be with a person like him or her

Worried that you may be in an unsafe relationship? Find out more at: <http://www.thehotline.org/is-this-abuse/>

Sexually abusive methods of retaining power and control include an abusive partner:

- Forcing you to dress in a sexual way
- Insulting you in sexual ways or calls you sexual names
- Forcing or manipulating you into having sex or performing sexual acts
- Holding you down during sex
- Demanding sex when you're sick, tired, or after hurting you
- Hurting you with weapons or objects during sex
- Involving other people in sexual activities with you against your will
- Ignoring your feelings regarding sex
- Forcing you to watch pornography
- Purposefully trying to pass on a sexually transmitted disease to you

Even if your partner isn't forcing you to do sexual acts against your will, being made to feel obligated is indeed coercion. Dating someone, being in a relationship, or being married never means that you owe your partner intimacy of any kind.

SEXUAL COERCION

Sexual coercion lies on the 'continuum' of sexually aggressive behavior. It can vary from being egged on and persuaded, to being forced to have contact. It can be verbal and emotional, in the form of statements that make you feel pressure, guilt, or shame. You also can be made to feel forced through more subtle actions. For example, an abusive partner retains power by:

- Making you feel like you owe him or her — ex. Because you're in a relationship, because you've had sex before, because he or she spent money on you or bought you a gift
- Giving you drugs and alcohol to "loosen up" your inhibitions
- Playing on the fact that you're in a relationship, saying things such as: "Sex is the way to prove your love for me." "If I don't get sex from you, I'll get it somewhere else."
- Reacting negatively with sadness, anger, or resentment if you say no or don't immediately agree to something
- Continuing to pressure you after you say no
- Making you feel threatened or afraid of what might happen if you say no
- Trying to normalize their sexual expectations — ex. "I need it, I'm a man."

Domestic violence (also called intimate partner violence [IPV], domestic abuse, or relationship abuse) is a pattern of behaviors used by one partner to maintain power and control over another partner in an intimate relationship.

Domestic violence doesn't look the same in every relationship because every relationship is different. But one thing most abusive relationships have in common is that the abusive partner does many different types of things to have more power and control over their partner.

Some of the signs of an abusive relationship include a partner who:

- Tells you that you can never do anything right
- Shows extreme jealousy of your friends and time spent away
- Keeps you or discourages you from seeing friends or family members
- Insults, demeans, or shames you with put-downs
- Controls every penny spent in the household
- Takes your money or refuses to give you money for necessary expenses
- Looks at you or acts in ways that scare you
- Controls who you see, where you go, or what you do
- Prevents you from making your own decisions
- Tells you that you are a bad parent or threatens to harm or take away your children
- Prevents you from working or attending school
- Destroys your property or threatens to hurt or kill your pets
- Intimidates you with guns, knives, or other weapons
- Pressures you to have sex when you don't want to or to do things sexually that make you feel uncomfortable
- Pressures you to use drugs or alcohol^[1]

You may be experiencing physical abuse if your partner has done or repeatedly does any of the following tactics of abuse:

- Pulling your hair, punching, slapping, kicking, biting, or choking you
- Forbidding you from eating or sleeping
- Hurting you with weapons
- Preventing you from calling the police or seeking medical attention
- Harming your children
- Abandoning you in unfamiliar places
- Driving recklessly or dangerously when you are in the car with him or her
- Forcing you to use drugs or alcohol (especially if you've had a substance abuse problem in the past)

You may be in an emotionally/verbally abusive relationship if your partner exerts control through:

- Calling you names, insulting you, or continually criticizing you
- Refusing to trust you and acting jealous or possessive
- Trying to isolate you from family or friends
- Monitoring where you go, who you call, and with whom you spend time
- Demanding to know where you are every minute
- Trapping you in your home or preventing you from leaving
- Using weapons to threaten to hurt you

¹ <http://www.thehotline.org/is-this-abuse/abuse-defined/>

- Punishing you by withholding affection
- Threatening to hurt you, the children, your family, or your pets
- Damaging your property when they're angry (throwing objects, punching walls, kicking doors, etc.)
- Humiliating you in any way
- Blaming you for the abuse
- Accusing you of cheating and being often jealous of your outside relationships
- Serially cheating on you and then blaming you for his or her behavior
- Cheating on you intentionally to hurt you and then threatening to cheat again
- Cheating to prove that he or she is more desired, worthy, etc. than you are
- Attempting to control your appearance: what you wear, how much/little makeup you wear, etc.
- Telling you that you will never find anyone better, or that you are lucky to be with a person like him or her ^[2]
- You constantly second-guess yourself.
- You ask yourself, "Am I too sensitive?" multiple times a day.
- You often feel confused and even crazy.
- You're always apologizing to your partner.
- You can't understand why, with so many apparently good things in your life, you aren't happier.
- You frequently make excuses for your partner's behavior to friends and family.
- You find yourself withholding information from friends and family so you don't have to explain or make excuses.
- You know something is terribly wrong, but you can never quite express what it is, even to yourself.
- You start lying to avoid the put downs and reality twists.
- You have trouble making simple decisions.
- You have the sense that you used to be a very different person – more confident, more fun-loving, more relaxed.
- You feel hopeless and joyless.
- You feel as though you can't do anything right.
- You wonder if you are a "good enough" partner. ^[3]

DIGITAL ABUSE

"In the rapidly changing digital landscape, people are constantly finding new forums and quicker methods of sharing exploitative images of people to a boundless online audience. Some call it nonconsensual image sharing, some label it image-based sexual assault, and many use the term "revenge porn." Regardless of the terminology, survivors of this growing form of exploitation share symptoms similar to survivors of physical sexual assault, underscoring the need for more effective strategies to end this abuse." ^[4]

Young women are more likely to be targeted: One in 10 women under the age of 30 have experienced threats of nonconsensual image sharing, a much higher rate than either older women or older and younger men.

2 <http://www.thehotline.org/2014/05/29/what-is-gaslighting/>

3 <http://www.thehotline.org/is-this-abuse/abuse-defined/>

4 MSW@USC Staff. "Nonconsensual Image Sharing Isn't Pornography — It's Sexual Assault." USC Suzanne Dworak-Peck School of Social Work, 30 Jan. 2018, msw.usc.edu/mswusc-blog/nonconsensual-image-sharing-is-sexual-assault/.

REMEMBER: ALWAYS TAKE SCREENSHOTS OF THE NON-CONSENSUAL IMAGE AND URL BEFORE REMOVAL!

TIP: If you are the victim of exploitative image sharing or a stalker, you should immediately reinforce your privacy and security settings on social media and other accounts. If you use Facebook, make your account private and hide your friend list. Make sure passwords to all your social media and e-mail accounts are complex and unique. Adopt two-step authentication whenever you can.

“Approximately one in 25 Americans has either had a nude or nearly nude image of them posted on the Internet without their permission or has had someone threaten to post an image or video, according to a [2016 study from the Data & Society Research Institute and the Center for Innovative Public Health Research](#).”^[5]

RESOURCES FOR VICTIMS OF NONCONSENSUAL IMAGE SHARING

Nonconsensual pornography (NCP) is defined as the distribution of sexually graphic images of individuals without their consent.

Below is a list of resources for those looking for information or assistance in handling nonconsensual pornography: Without My Consent has educational materials and practical resources for victims of nonconsensual pornography, including a state-by-state guide explaining relevant laws for 10 states. More: <http://www.withoutmyconsent.org>

- The Cyber Civil Rights Initiative is an advocacy organization that maintains a 24-hour Crisis Helpline for **victims of nonconsensual pornography at 844-878-2274.**

More: <https://www.cybercivilrights.org/>
<https://www.cybercivilrights.org/faqs-usvictims/>

- **Removing non-consensual information from Google:** <https://support.google.com/websearch/troubleshooter/3111061#ts=2889054%2C2889099>
- **Removing non-consensual information from Bing:** <https://www.microsoft.com/en-us/concern/bing/>

Microsoft will remove links to photos and videos depicting non-consensually distributed pornography from search results in Bing and remove access to the content when shared on OneDrive or Xbox Live.

- Remove non-consensual information from **Instagram:**

Instagram's method of removing nude or sexually explicit images or videos that have been shared without consent is presently the same as reporting harassment or bullying. Victims must fill out a form available here: <https://www.facebook.com/help/instagram/contact/584460464982589#>

- Removing non-consensual information from **Facebook:**

To protect victims and survivors, Facebook removes photographs or videos depicting incidents of sexual violence and images shared in revenge or without permissions from the people in the images.

The form can be found here: <https://www.facebook.com/help/contact/274459462613911>

- Reporting abuse on **Facebook from your mobile phone:** <https://www.facebook.com/help/1432374603715654/list>

5 AMANDA LENHART, et al. "Nonconsensual Image Sharing - Data & Society." <https://datasociety.net/>, Center for Innovative Public Health Research, 13 Dec. 2016, https://datasociety.net/pubs/oh/Nonconsensual_Image_Sharing_2016.pdf

- Removing non-consensual information from **Twitter**:

Twitter has a special form for people reporting the exposure of private information, including intimate photos. It is NOT necessary to have a Twitter account to report abuse. The form can be found here: https://help.twitter.com/forms/private_information

- Removing non-consensual information from **Reddit**:

Reddit will remove photographs, video, or digital images of individuals in a state of nudity, sexual excitement, or engaged in any act of sexual conduct, that is posted on or linked to reddit without the individual's permission.

Notifications to Reddit about revenge porn should be sent via email to contact@reddit.com. Its policy includes links to nude images.

- Removing non-consensual information from **Tumblr**:

Victims of non-consensual pornography should fill out this form: <https://www.tumblr.com/abuse/privacy>

Nonconsensual pornography (nonconsensual image sharing) may be a crime if any one of the following applies to your situation:

1. You were 17 years-old or younger when the photos were taken.
2. The photo(s) was/were taken without your knowledge or consent.
3. The perpetrator hacked into your phone or computer or other personal property and stole the photos.
4. You already have a restraining order against the perpetrator.*
5. The perpetrator has threatened to publish your nude photos.
6. You live in one of the 38 states have made distributing nonconsensual pornography a crime. Other states, including NY, have bills pending in legislation.

Regardless of whether the above scenarios apply to you, it is wise to still file a police report with your local police department. The police will inform you if it is a crime in your area.

GATHER EVIDENCE

Find out if the perpetrator has posted your photos on any other websites.

- Go to Google's reverse image search engine.
- Upload your photos.
- Google will show you any other websites that have your photos posted.
- Print out or write down the links to these websites.

Take screenshots of all google search results and all websites that have your photos. You may need these as evidence in the future.

SEXTORTION

Another emerging area of digital harassment is “sextortion”—defined as blackmail (often by the threat of releasing sexually explicit images of the victim) carried out over a computer network, which forces victims to engage in some form of sexual activity online.

Sextortion cases involve what are effectively online, remote sexual assaults

Sextortion Modalities

- Social Media Manipulation
- Computer Hacking

- Account Hacking
- Webcam Hacking

DATING VIOLENCE

Dating violence occurs when one partner tries to maintain power and control over the other through abuse/violence. The abuser intentionally behaves in ways that cause fear, degradation and humiliation to control the other person.

Relationship violence, domestic violence, or intimate partner abuse is a pattern of intimidating behaviors (usually a series of abusive behaviors over a course of time) that aim to exert control and power over a dating partner. Such forcible, intimidating, and abusive behaviors can be physical, sexual, psychological, verbal and/or emotional in nature. Intimate partner abuse can occur in relationships of the same or different genders; between current or former intimate partners who have dated, share a child, lived together, or have been married.

Abusers attempt to control their partners in a variety of ways. The following is a list of common controlling behaviors:

- **Isolation:** Trying to cut off the victim's relationship with family and friends; using jealousy to justify behavior.
- **Emotional:** Humiliating the victim in front of friends or making the victim feel guilty when she confronts the abuser about the abuse.
- **Intimidation:** Making the victim fearful by using threatening behavior, abuse of animals, verbal aggression, or destruction of property.
- **Coercion:** Threatening to find someone else if the dating partner doesn't comply with the abuser's wishes or demands. Threats to harm self or others if the dating partner leaves.
- **Physical:** Using or threatening to use physically assaultive behaviors such as hitting, shoving, grabbing, slapping, beating, kicking, etc.
- **Sexual:** Touching or forcing the victim to engage in unwanted sexual activity. ^[6]

STALKING

Stalking is unwanted or obsessive attention by an individual or group toward another person. You can be stalked by someone you know casually, a stranger, or a past or current friend, boyfriend, or girlfriend.

Stalking is a pattern of repeated and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to feel fear.

Stalking can include:

- Repeated, unwanted, intrusive, and frightening communications from the perpetrator by phone, mail, and/or e-mail.
- Repeatedly leaving or sending victim unwanted items, presents, or flowers.
- Following or lying in wait for the victim at places such as home, school, work, or recreation place.
- Making direct or indirect threats to harm the victim, the victim's children, relatives, friends, or pets.
- Damaging or threatening to damage the victim's property.
- Harassing victim through the Internet.
- Posting information or spreading rumors about the victim on the Internet, in a public place, or by word of mouth.
- Obtaining personal information about the victim by accessing public records, using Internet search services, hiring private investigators, going through the victim's garbage, following the victim, contacting victim's friends, family, work, or neighbors, etc. ^[7]

Source: Stalking Resource Center, National Center for Victims of Crime

⁶ <http://www.michigan.gov/datingviolence/0,4559,7-233-46553-169521--,00.html>

⁷ <https://www.justice.gov/ovw/stalking>

What to Do If You Are Being Stalked

1. Trust your instincts. Victims of stalking often feel pressured by friends or family to downplay the stalker's behavior, but stalking poses a real threat of harm. Your safety is paramount.
2. Call the police if you feel you are in any immediate danger. Explain why even some actions that seem harmless—like leaving you a gift—are causing you fear.
3. Keep a record or log of each contact with the stalker. Be sure also to document any police reports.
4. Stalkers often use technology to contact their victims. Save all e-mails, text messages, photos, and postings on social networking sites as evidence of the stalking behavior.
5. Get connected with a local victim advocate to talk through your options and discuss safety planning. Call the National Domestic Violence Hotline at **1-800-799-SAFE**.^[8]

19.3 million women and 5.1 million men in the United States have been stalked in their lifetime. 60.8% of female stalking victims and 43.5% of men reported being stalked by a current or former intimate partner 1 and 2.

RAPE, SEXUAL VIOLENCE, SEXUAL ASSAULT, AND SEXUAL ABUSE

SEXUAL ASSAULT

Sexual assault is any type of sexual contact or behavior that occurs without the explicit consent of the recipient. Falling under the definition of sexual assault are sexual activities as forced sexual intercourse, forcible sodomy, child molestation, incest, fondling, and attempted rape.

<https://www.rainn.org/>

<https://www.cdc.gov/Violenceprevention/sexualviolence/index.html>

<http://www.evawintl.org/>

<http://victimsofcrime.org/home>

Need help? The National Sexual Assault Hotline is a safe, confidential service. Call 800-656-HOPE (4673) to be connected with a trained staff member from a sexual assault service provider near you.

SEXUAL ABUSE

New York criminalizes a wide range of conduct constituting "sexual abuse," which is generally defined as subjecting another person to sexual contact without the latter's consent. New York Penal Code Section 130(3) further defines "sexual contact" to include "any touching of the sexual or other intimate parts of a person for the purpose of gratifying sexual desire of either party," and touching of the actor by the victim, as well as the touching of the victim by the actor, whether directly or through clothing.

Other related crimes include forcible touching and persistent sexual abuse. New York also punishes four degrees of aggravated sexual abuse, each of which involve the insertion of a foreign object in the vagina, urethra, penis, rectum, or anus of another person. "Foreign object" means any instrument or article whose insertion into the sexual parts of a person will cause physical injury. All aggravated sexual abuse offenses are felonies.

DRUG-FACILITATED SEXUAL ASSAULT (DATE RAPE DRUGS)

Drug-facilitated sexual assault occurs when alcohol or drugs are used to compromise an individual's ability to consent to sexual activity. These substances make it easier for a perpetrator to commit sexual assault because they inhibit a person's ability to resist and can prevent them from remembering the assault.

A perpetrator may intentionally drug a victim, resulting in a situation where it is easy to manipulate the circumstances and commit an assault. Perpetrators use a variety of substances to incapacitate a victim.

- Alcohol is the most commonly used substance in drug-facilitated sexual assault.

You may have heard the term "date rape drugs" to refer to substances that can aid a perpetrator in committing sexual assault. Drug-facilitated sexual assault can happen to anyone, by anyone, whether the perpetrator is a date, a stranger, or someone you've known for a while.

⁸ <https://www.justice.gov/sites/default/files/ovw/legacy/2013/01/31/tips-for-victims.pdf>

- Prescription drugs like sleep aids, anxiety medication, muscle relaxers, and tranquilizers may also be used by perpetrators.
- Street drugs, like GHB, rohypnol, ecstasy, and ketamine can be added to drinks without changing the color, flavor, or odor of the beverage. ^[9]

HOW WILL I KNOW IF I'VE BEEN DRUGGED?

Depending on the substance, the initial effects of a drug can go unnoticed or become apparent very quickly. If you notice any of the following warning signs in yourself or someone you know, reach out to someone you trust immediately. If you notice these symptoms in another person, you can take steps to keep that person safe.

- Difficulty breathing
- Feeling drunk when you haven't consumed any alcohol or very limited amounts
- Loss of bowel or bladder control
- Nausea
- Sudden body temperature change that could be signaled by sweating or chattering teeth
- Sudden increase in dizziness, disorientation, or blurred vision
- Waking up with no memory, or missing large portions of memories

PRESERVING EVIDENCE

If you suspect you were drugged, you can take steps to preserve the evidence for an investigation. Many of these drugs leave the body quickly, within 12 to 72 hours. If you can't get to a hospital immediately, save your urine in a clean, sealable container as soon as possible, and place it in the refrigerator or freezer. Call the National Sexual Assault Hotline at **800-656-HOPE (4673)** to find a hospital or medical center that can provide you with a sexual assault forensic exam and test your blood and urine for substances.

^[10]

HOW DO I FIND MEDICAL CARE?

Once you're in a safe place, you can call the National Sexual Assault Hotline at **800-656-HOPE (4673)** and be connected to a local sexual assault service provider. They will direct you to the appropriate local health facility that can care for survivors of sexual assault. They can also send an advocate to help walk you through the process of receiving medical care during this tough time. If you can, it's best to avoid showering or bathing before arrival. Bring a change of clothing with you if you are able.

In addition to receiving medical attention, you may wish to have a sexual assault forensic exam, sometimes called a "rape kit." During this exam, someone specially trained to perform this exam, such as Sexual Assault Nurse Examiner (SANE), will collect DNA evidence that can help identify the perpetrator. You do not have to agree to a forensic exam to receive treatment, but having one done may give you a stronger case against the perpetrator if you decide to report the crime now or down the road.

There may be a risk of contracting a sexually transmitted infection (STI) during a sexual assault. The only way to know for sure if you have an STI is to get tested. Based on what happened, a healthcare professional will recommend which tests are important to have now and which may need to be repeated in the future.

9 <https://rainn.org/articles/drug-facilitated-sexual-assault>

10 <https://rainn.org/articles/steps-you-can-take-after-sexual-assault>

HOW MUCH WILL IT COST?

Like all healthcare, there may be some costs associated with medical attention and medication, but these costs shouldn't keep you from getting the care you need. There are victim compensation programs that can help cover some of the expenses. Most victim compensations funds require you to report the crime to law enforcement within 72 hours in order to be eligible. ^[11]

WHO PROVES THAT THE SEXUAL CONTACT WAS NOT CONSENSUAL?

Whether all parties consented to sexual activity or contact will be determined through the student conduct process. Per Section 6444(5)(c)(ii), respondents (the accused) have a right to a presumption that the respondent is 'not responsible' until a finding of responsibility is made. This means that the burden of showing that a student had sexual activity or contact with another without affirmative consent as defined in these sections is on the institution, not on the respondent to prove a negative. Further, the burden is on the institution to develop these facts, not on the reporting individual, who may participate at the level to which he or she is comfortable. **Through the process, appropriate officials may listen to witnesses and review available evidence to make determination, to the best of their ability, whether it is more likely than not that a policy violation occurred.**

Students will not be determined in advance to have violated a rule and then to "prove a negative". Simply put, there will be a presumption that the student is "innocent until proven guilty".

POLICY FOR ALCOHOL AND/OR DRUG USE AMNESTY (SECTION 6442)

The health and safety of every student at LIBI is of utmost importance. LIBI 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. LIBI strongly encourages students to report domestic violence, dating violence, stalking, or sexual assault to institution officials. A bystander acting in good faith or a reporting individual acting in good faith who discloses any incident of domestic violence, dating violence, stalking, or sexual assault to LIBI's officials or law enforcement will not be subject to LIBI's code of conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.

This policy does not limit the college from seeking assistance for a student who is struggling with drug or alcohol addiction or is otherwise in danger provided that the assistance is not disciplinary in nature.

Amnesty from internal institutional violations for drug or alcohol use is provided to students who report incidents under this provision. **Drug dealers or those who use drugs or alcohol as a weapon or to facilitate assault will not receive amnesty under this provision.** This policy covers only personal drug use and possession whether intentional or accidental. The point of this policy is to remove the fear of those who have, legally or illegally, been using or in the presence of drugs or alcohol at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault, that the college would take conduct action related to the use of drugs or alcohol rather than action on the sexual or interpersonal violence.

** Note that this provision only covers the student disciplinary process. The legislation does not cover the criminal justice process (but see New York State Good Samaritan Law, Penal Law §220.78), does not cover areas outside of conduct, and **does not apply to employees of the institution.***

This policy does not limit the college from seeking assistance for a student who is struggling with drug or alcohol addiction or is otherwise in danger provided that the assistance is not disciplinary in nature.

11 U. S. Department of Justice Office on Violence Against Women. (April 2013). A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents. Retrieved from [A National Protocol for Sexual Assault Medical Forensic Examinations, Adults/Adolescents](#).

STUDENTS' BILL OF RIGHTS (SECTION 6443)

The “Students’ Bill of Rights” is part of LIBI’s Code of Conduct and is distributed annually to students. It is also made available on LIBI’s website and is posted in high traffic areas at all LIBI locations. The Students’ Bill of Rights includes links and information to file a report and to seek a response, as well as the options for confidential disclosure. Please read this section very carefully and seek clarification from your Academic Advisor if you have any questions about this section.

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. Decide whether or not to disclose a crime or violation and to participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the reporting individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from retaliation by the institution, any student, the accused and/or the respondent, and/or their friends, family, and acquaintances within the jurisdiction of the institution;
9. Access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused, or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process; and
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution.

“Advisor” means a support person who accompanies a respondent or reporting individual for the limited purpose of providing support, advisement and guidance in cases involving sexual assault, domestic violence, dating violence, stalking, or any other sexual misconduct.

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

Students can report incidents to the following designated Title IX Coordinators:

The Title IX Coordinators are:

FLUSHING CAMPUS

Adriana Arguelles
136-18 39th Ave.
Flushing, NY 11354
718-939-5100 ext.114
aarguelles@libi.edu

COMMACK CAMPUS

Audrey Sumner
6500 Jericho Turnpike
Commack, NY 11725
631-499-7100 ext. 19
asummer@libi.edu

NYC EXTENSION

April Robinson
232 West 40th Street
New York, NY 10018
212-226-7300 ext. 347
arobinson@libi.edu

Students who decide to report an incident have three options in accordance with the Clery Act, 20 U.S.C § 1092(f)(8) (B)(iii)(III)(aa)-(cc):

1. notify proper law enforcement authorities, including on-campus and local police;
2. be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and

3. decline to notify such authorities.

This subdivision of the Bill of Rights means that LIBI must be neutral in providing these options and neither encourage or discourage students from choosing a specific option. It is important for reporting individuals to understand that they control their own decision-making not the college.

Although LIBI does not have on-campus police, the New York State Police have statewide jurisdiction and have created a special unit dedicated to college and university sexual and interpersonal violence prevention and response. If a reporting individual decides to inform law enforcement, LIBI will assist by calling 911 if an emergency exists, or by contacting New York State Police.

To report sexual assault, dating violence, domestic violence and/or stalking within a college campus in New York State, call **1-844-845-7269**. **In an emergency contact 911.**

LIBI will provide reporting individuals access to medical and counseling resources available in the community or through statewide or national organizations.

All students have the right to have their complaint investigated and adjudicated in an impartial, timely, and thorough manner by individuals who receive annual training in conducting investigations of sexual violence, the effects of trauma, and impartiality. This policy also guarantees the respondent (the accused student) the right to a presumption that the respondent is “not responsible” until a finding of responsibility is made pursuant to the provisions of this article and LIBI’s policies and procedures.

LIBI’s students have emergency access to a Title IX Coordinator and other appropriate officials trained in interviewing victims of sexual assault who will be available upon the first instance of disclosure by a reporting individual to provide information regarding options to proceed, and, where applicable, the importance of preserving evidence and obtaining a sexual assault forensic examination as soon as possible, and detailing that the criminal justice process utilizes different standards of proof and evidence and that any questions about whether a specific incident violated the penal law should be addressed to law enforcement or to the district attorney. The Title IX Coordinator or other appropriate official will also explain whether he or she is authorized to offer the reporting individual confidentiality or privacy and inform the reporting individual of other reporting options. New York State Education Law §6444 (1)(b). At present, LIBI does not utilize a Sexual Assault and Violence Response institutional website.

A team of attorneys from public and private colleges developed a resource to assist colleges in complying with the requirement of educating about the different standards of proof and evidence. The resource may be accessed as a Word or PDF at this site: <http://system.suny.edu/sexualviolence-prevention-workgroup/College-and-Criminal-Resource/>.

LIBI’s Title IX Coordinators are on campus from 9 am to 7pm. Contact information for these individuals, including office locations are published throughout this document, in the college catalog, and on LIBI’s website. Students who have been assaulted outside of regularly scheduled campus hours are asked to seek **immediate assistance** from law enforcement or a Victim/Witness Liaison (emergency access officials) at one of the following:

-   • **In NYC:** 1-800-621-HOPE (4673) or dial 311
TDD: 1-800-810-7444/ TTY: 1-866-604-5350
-   • **New York State Hotline for Sexual Assault and Domestic Violence:**
1-800-942-6906
-   • **The National Domestic Violence 24-Hour Hotline:**
1-800-799-7233 or 1-800-787-3224 (TTY)
-   • **GLBTQ Domestic Violence Project:**
This national resource supports GLBTQ victims and survivors through a 24-Hour domestic violence hotline, emergency safe home, legal services, crisis intervention and safety planning, housing and employment advocacy, sexual assault case management, and ongoing supportive services.
Hotline: 1-800-832-1901
<http://www.glbtdvp.org/>

Victims have the right to be treated with dignity and to receive from LIBI courteous, fair, and respectful health care referral and counseling services, where available.

LIBI will not sanction and assign responsibility without establishing the elements of a violation. The college will also approach reporting individuals in a fair and open way, informed by the effects of trauma on reporters.

-  : Available 24/7
-  : Confidential
-  : LGBTQ

Call the New York State Hotline for Sexual Assault and Domestic Violence at 1-800-942-6906. This free, confidential hotline is answered 24/7 by trained victim advocates who can provide you with information and crisis counseling on the phone. If you need or want in-person or follow-up services, you will be referred to your local rape crisis program for those services.

- **National Sexual Assault Hotline:** 1-800-656-HOPE (4673)
National Sexual Assault Online Hotline: <https://ohl.rainn.org/online>
To locate a Crisis Center near you, go to: <http://nyscasa.org/get-help/>

To locate a Crisis Center near you, go to:

<http://nyscasa.org/get-help/>



- For information on what to expect from a **Victim/Witness Liaison** please visit: <http://www.opdv.ny.gov/help/victims/advocate.html>
- **New York State Police Campus Sexual Assault Victims Unit:** <https://consentfirst.troopers.ny.gov/>
- **Non-Emergency Hotline:** 1-844-845-7269

LIBI will make all possible efforts to protect reporting students from having unnecessarily to repeat their description of what occurred. The reporting student will be asked to repeat the events only for legitimate reasons, which may include a Title IX investigation, prior to student conduct charges, interviews with law enforcement, etc. The college will ensure that those instances are as few as practicable not as few as possible since repetitions may be necessary in some legitimate situations.

Through its Student Code of Conduct LIBI strictly prohibits any form of retaliation. Students who are involved in reporting any incident, whether related to sexual misconduct, sexual discrimination, or any other wrong doing will be protected from retaliation from the college or from any member of the LIBI community. Where retaliation is found to have occurred by someone within the institution's jurisdiction, the college will take appropriate measures to address the situation through disciplinary actions or other necessary remedies.

Consistent with the Clery Act and the Enough is Enough legislation, LIBI provides equal opportunities for the accuser and accused to have others present during proceedings, including an advisor of their choice. The advisor 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.

All students have the right to exercise civil rights and practice of religion without interference by the investigative, criminal justice, or judicial or conduct process of the institution. LIBI will not create situations that force students to choose between their religion and participating in the hearing or investigative process. For example, LIBI shall not tell an Orthodox Jewish student that the hearing will be held on Friday at 7:00 p.m. or tell a Muslim student that the only time the Title IX Coordinator can meet with them is just before sunset during Ramadan (when they have been fasting all day). Additionally, LIBI will never force students to undergo medical procedures that they say are forbidden by their religion. LIBI will work with participants to ensure they do not have to choose between participating in the judicial process and practicing their religion.

SEXUAL VIOLENCE REPORTING OPTIONS

Below is a list of options a reporting individual has in reporting the violation. They are not mutually exclusive. A reporting individual may use any or none of these options.

- Disclose confidentially the incident to institution representatives, who may offer confidentiality pursuant to applicable laws and can assist in obtaining services for reporting individuals;
- Disclose confidentially the incident and obtain services from the state or local government;
- Disclose the incident to institution representatives who can offer privacy or confidentiality, as appropriate, and can assist in obtaining resources for reporting individuals;
- File a report of sexual assault, domestic violence, dating violence, and/or stalking and the right

Reporting individuals will 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.

to consult the Title IX Coordinator and other appropriate institution representatives for information and assistance. Reports will be investigated in accordance with institution policy and a reporting individual's identity shall remain private at all times if said reporting individual wishes to maintain privacy;

- Disclose, if the accused is an employee of the college, the incident to the institution's human resources authority or the right to request that a confidential or private employee assist in reporting to the appropriate human resources authority.

LIBI will assist reporting individuals by referring them to legal aid or community resources (a list and map of legal aid resources in New York State is available at <http://www.suny.edu/violence-response/>, click on "Off Campus Resources" and then sort for "Legal Resources").

LIBI will serve as a resource to students in initiating proceedings. This includes making available information sheets, links to appropriate resources, and assistance from college personnel in contacting outside resources.

A reporting individual may withdraw a complaint or report from the institution at any time. Students who do so will not be penalized. LIBI may, consistent with other provisions of the Education Law Article 129-B as well as federal law, still have obligations to investigate and/or to take action. Pursuant to this law, reporting individuals may participate as much or as little as they wish.

PRIVILEGED AND CONFIDENTIAL RESOURCES:

Consistent with the definitions in Section I of this document and Section 6446(5)&(6) of Education Law Article 129-B, the following section will help you understand which privileged and confidential resources reporting individuals may contact regarding, domestic violence, dating violence, stalking, or sexual assault.

Individuals who are *confidential* resources **will not report crimes to law enforcement or college officials** without your permission, except for extreme circumstances, such as a health and/or safety emergency. Off campus options do not provide any information to the campus.

NON-PROFESSIONAL COUNSELORS AND ADVOCATES:

Non-professional counselors and advocates can also assist you without sharing information that could identify you. These individuals will report the nature, date, time, and general location of an incident to the Title IX Coordinator **and will consult with you to ensure no personally identifying details are shared without your consent.** These individuals are not considered confidential resources as discussed above.

PRIVACY VERSUS CONFIDENTIALITY:

Even LIBI offices and employees who cannot guarantee *confidentiality* **will maintain your privacy to the greatest extent possible.** The information you provide to a non-confidential resource will be relayed only as necessary to investigate and/or to seek a resolution and to notify the Title IX Coordinator or designee, who is responsible under the law for tracking patterns and spotting systemic issues. LIBI will limit the disclosure as much as possible, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored.

REQUESTING CONFIDENTIALITY:

How LIBI will evaluate and respond to the request for confidentiality:

Students who disclose an incident to a LIBI employee who is responsible for responding to or reporting sexual violence or sexual harassment, but wish to maintain confidentiality or do not consent

to the college’s request to initiate an investigation, must understand that the Title IX Coordinator has an obligation to assess the request against **LIBI’s obligation to provide a safe, non-discriminatory environment for all members of our community, including the student making the report.**

LIBI will assist the reporting student with any appropriate or necessary academic adjustments, connecting the student with organizations that can help with shelter, transportation, employment, and other reasonable accommodations through several college offices. The following office serves as the primary point of contact at each LIBI location:

<u>Academic Advising Office</u>		
FLUSHING CAMPUS	COMMACK CAMPUS	NYC EXTENSION
136-18 39 th Ave. 5th Floor Flushing, NY 11354 718-939-5100 ext.114	6500 Jericho Turnpike 2nd Floor Commack, NY 11725 631-499-7100 ext. 12	232 West 40th Street Room 915 New York, NY 10018 212-226-7300 ext. 356

As a result of a report, LIBI may also take proactive steps, such as training or awareness efforts, to combat sexual violence in a general way that would not identify the reporting individual or the situation that was disclosed.

Honoring your request may limit our ability to meaningfully investigate and pursue conduct action against an accused individual.

The Title IX Coordinator or an appropriate designee may seek consent from the reporting individual prior to conducting the investigation. The reporting individual may decline to consent to an investigation, and that determination will be honored unless LIBI’s failure to act may result in harm to the reporter or to other members of the college community. The college may decide that it can’t honor the request for confidentiality because that may limit LIBI’s ability to investigate meaningfully and to pursue conduct action against an accused individual. If the decision is made that an investigation is required, LIBI will notify the reporting individual and take immediate action as deemed necessary.

When you disclose an incident to someone who is responsible for responding to or reporting sexual violence or sexual harassment, but wish to maintain confidentiality, LIBI will consider many factors to determine whether to proceed notwithstanding that request. These factors include, but are not limited to:

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

PUBLIC AWARENESS/ADVOCACY EVENTS:

Students who disclose a situation through a public awareness event such as a scheduled campus forum, LIBI is not obligated to begin an investigation. The college may use the information provided at the forum to inform additional education and prevention efforts.

Institutional Crime Reporting Reports of certain crimes occurring in certain geographical locations will be included in LIBI’s Clery Act Annual Security Report in an anonymized manner that neither identifies the specifics of the crime or the identity of the victim/survivor. Additionally, the Family Educational Rights and Privacy Act allows institutions to share information with parents when (1) there is a health or safety emergency, or (2) when the student is a dependent on either the parents’ prior year federal income tax return. LIBI will not share information about a report of sexual violence with parents without the permission of the victim/survivor.

Reporting Continued:

Students have the option to disclose confidentially the incident to one of the following college officials, who by law may maintain confidentiality, and can assist in obtaining services:

Peter Agcaian
Dean of Academics

232 West 40th Street
New York, NY 10018
212-226-7300 ext. 353

pagcaian@libi.edu

Ashley Guo
Coordinator of Career Services

136-18 39th Avenue
Flushing, NY 11354
718-939-5100 ext. 138

aguo@libi.edu

Students can also report via an internet and telephone anonymous reporting system:

- By email: safe@libi.edu;
- By phone: **347-696-SAFE**; or
- By incident submission form located on LIBI's website (libi.edu)

To disclose confidentially the incident and obtain services from the New York State, New York City or county hotlines: <http://www.opdv.ny.gov/help/dvhotlines.html>.

Additional disclosure and assistance options are catalogued by the Office for the Prevention of Domestic Violence and presented in several languages: <http://www.opdv.ny.gov/help/index.html> (or by calling **1-800-942-6906**),

Assistance can also be obtained through:

- **SurvJustice:** <http://survjustice.org/our-services/civil-rights-complaints/>
- **Legal Momentum:** <https://www.legalmomentum.org/>
- **NYSCASA:** <http://nyscasa.org/responding>
- **NYSCADV:** <http://www.nyscadv.org/>
- **Pandora's Project:** <http://www.pandys.org/lgbtsurvivors.html>
- **GLBTQ Domestic Violence Project:** <http://www.glbtqadv.org/>
- **RAINN:** <https://www.rainn.org/get-help>
- **Safe Horizons:** <http://www.safehorizon.org/>

IMPORTANT TO UNDERSTAND

Note that the non-LIBI resources and hotlines listed above are for crisis intervention, resources, and referrals, and are not reporting mechanisms, meaning that disclosure on a call to a hotline does not provide any information to the campus. Reporting individuals are encouraged to additionally contact a campus confidential or private resource so that the college can take appropriate action in these cases.

INDIVIDUALS WHO CAN RECEIVE A REPORT AND OFFER PRIVACY:

All students have the option to disclose the incident to one of the following college officials who can offer privacy and can provide information about remedies, accommodations, evidence preservation, and how to obtain resources. Those officials will also provide the information contained in the [Students' Bill of Rights](#) including the right to choose when and where to report, to be protected by the college from retaliation, and to receive assistance and resources from LIBI. These college officials will disclose that they are private and not confidential resources, and they may still be required by law and college policy to inform one or more college officials about the incident, including but not limited to the Title IX Coordinator. They will notify reporting individuals that the criminal justice process uses different standards of proof and evidence than internal procedures, and questions about the penal law or the criminal process should be directed to law enforcement or district attorney:

- **Title IX Coordinators**

FLUSHING CAMPUS

Adriana Arguelles
718-939-5100 ext. 114
aarguelles@libi.edu

COMMACK CAMPUS

Audrey Sumner
631-499-7100 ext. 19
asumner@libi.edu

NYC EXTENSION

April Robinson
212-226-7300
ext. 347
arobinson@libi.edu

- **Student Services Staff**

NYC EXTENSION

Karin Chang
Accessibility Coordinator

232 W. 40th St.
Room 915
NY, NY 11354
212-226-7300 ext. 356
kchang@libi.edu

COMMACK CAMPUS

Terry Canavan
Librarian

6500 Jericho Turnpike
2nd Floor
Commack, NY 11725
631-499-7100 ext. 17
tcavanaugh@libi.edu

NYC EXTENSION

Jhonatan Aybar
Director of Admissions

232 W. 40th St.
Room 901
NY, NY 10018
212-226-7300 ext. 327
jaybar@libi.edu

- **To file a criminal complaint with local law enforcement and/or state police:**

FLUSHING CAMPUS

Catherine Law
Director of Operations

136-18 39th
Ave., 5th Floor
Flushing, NY 11354
718-939-5100 ext. 131
claw@libi.edu

COMMACK CAMPUS

Michelle Houston
Assistant Campus Director

6500 Jericho Turnpike
2nd Floor
Commack, NY 11725
631-499-7100 ext. 12
mhouston@libi.edu

NYC EXTENSION

Jhonatan Aybar
Director of Admissions

232 W. 40th St.
Room 901
New York, NY 10018
212-226-7300 ext. 327
jaybar@libi.edu

- **State police 24-hour hotline to report sexual assault on a NY college campus: 1-844-845-7269.**

- **NYPD Precincts**

FLUSHING

109th Precinct

Domestic Violence:
718.321.2279

37-05 Union Street
Flushing, NY, 11354-4117

718.321.2250

COMMACK

Fourth Precinct

Domestic Violence:
631.854.7520

727 Veterans Memorial Hwy
Smithtown, NY 11787

631-854-8400

NYC

14th Precinct

(the Midtown South Precinct)

Domestic Violence:
212. 239.9863

357 West 35th Street
New York, NY, 10001-1701

212.239.9811

- To receive assistance in initiating legal proceedings in family court or civil court students should meet with Julia Scalia, Coordinator Academic Success Center. Ms. Scalia can be reached by email at jscaliam@libi.edu or by phone **212-226-7300 ext. 342**
- To file a report of sexual assault, domestic violence, dating violence, and/or stalking, and/or talk to the Title IX Coordinator for information and assistance. Reports will be investigated in accordance with LIBI's policy and the reporting individual's identity shall remain private at all times if said reporting individual wishes to maintain privacy. If a reporting individual wishes to keep his or her identity anonymous, he or she may call anonymously to discuss the situation and available options (Please see [Requesting Confidentiality](#) section and [Reporting Continued](#) section)
- When the accused is an employee, a reporting individual also may report the incident to the Director of Operations (staff) and the Provost (faculty) or may request that one of the above referenced confidential or private employees assist in reporting to the Director of Operations or the Provost. When the accused is an employee of an affiliated entity or vendor of the college, college officials will, at the request of the reporting individual, assist in reporting to the appropriate office of the vendor or affiliated entity and, if the response of the vendor or affiliated entity is not sufficient, assist in obtaining a persona non grata letter, subject to legal requirements and college policy.

Ms. S. Johnson
Provost
 136-17 39th Avenue
 Room A107
 Flushing, NY 11354
 347-368-1193
sjohnson@libi.edu

Ms. C. Law
Director of Operations
 136-17 39th Avenue
 5th Floor
 Flushing, NY 11354
 718-939-5100 ext.131
claw@libi.edu

IMPORTANT TO UNDERSTAND

Students may withdraw their complaint or involvement from the LIBI process at any time.

Students are urged to obtain effective intervention services.

The Student Services Staff provides information and referrals to various community resources and local health services that provide free or subsidized medical care for victims of sexual assault and domestic violence.

FLUSHING CAMPUS

Karen Chang
Accessibility Coordinator
kchang@libi.edu

COMMACK CAMPUS

Terry Canavan
Librarian
tcanavan@libi.edu

NYC EXTENSION

Jhonatan Aybar
Director of Admissions
jaybar@libi.edu

Sexual contact can transmit Sexually Transmitted Infections (STI) and may result in pregnancy. Students will be referred to testing for STIs and emergency contraception to off-campus facilities.

Pursuant to Title IX of the Education Amendments of 1972 and the U.S. Department of Education’s implementing regulations at 34 C.F.R. Part 106, LIBI’s Title IX Coordinator has primary responsibility for coordinating LIBI’s efforts to comply with and carry out its responsibilities under Title IX, which **prohibits sex discrimination in all the operations of this college**, as well as retaliation for the purpose of interfering with any right or privilege secured by Title IX.

Sexual misconduct against students, including sexual harassment, sexual assault, rape, and sexual exploitation, can be a form of sex discrimination under Title IX.

The Title IX coordinator oversees LIBI’s response to reports and complaints that involve possible sex discrimination to monitor outcomes, identify and address any patterns, and assess effects on the campus climate, so the college can address issues that affect the wider school community.

A student should contact the Title IX Coordinator in order to:

- seek information or training about students’ rights and courses of action available to resolve reports or complaints that involve potential sex discrimination, including sexual misconduct;
- file a complaint or make a report of sex discrimination, including sexual misconduct;
- notify the college of an incident or policy or procedure that may raise potential Title IX concerns;
- get information about available resources (including confidential resources) and support services relating to sex discrimination, including sexual misconduct; and
- ask questions about LIBI’s policies and procedures related to sex discrimination, including sexual misconduct. LIBI’s Title IX compliance team includes the Title IX Coordinator, the Provost, the Assistant Campus Director, and the Director of Operations & Institutional Effectiveness.
- LIBI has three Title IX Coordinators (one at each campus). Each Coordinator can be reached in person at their designated campus offices, by telephone, or by e-mail. The contact information of each Title IX Coordinator is printed below, it is also printed in the College Catalog, and is posted on the Safety Bulletin Boards located throughout the campuses.
- Title IX Coordinators:

FLUSHING CAMPUS

Adriana Arguelles
718-939-5100 ext.114
aarguelles@libi.edu

COMMACK CAMPUS

Audrey Sumner
631-499-7100 ext. 19
asummer@libi.edu

NYC EXTENSION

April Robinson
212-226-7300 ext. 347
arobinson@libi.edu

- The Provost can be reached by email at sjohnson@libi.edu or in person at the Annex Building in the Main Campus (136-17 39th Avenue, 4th Floor, Flushing, NY 11354) or by telephone at **347-368-1193**.
- The Director of Operations & Institutional Effectiveness can be reached by email at claw@libi.edu or in person at the NYC Extension (232 West 40th Street, 9th Floor, New York, NT 10018) or by telephone at **212-226-7300 ext. 349**.

In the event that the incident, policy, or procedure about which the student seeks to file a report or complaint creates the appearance of a conflict of interest with one of the members of the Title IX compliance team, students may contact any other member of the team or notify the President of the college at mfoote@libi.edu. Inquiries or complaints that involve potential violations of Title IX may also be referred to the **U.S. Department of Education’s Office for Civil Rights**, which can be reached at <https://wdcrobcolp01.ed.gov/cfapps/OCR/contactus.cfm> or the **Educational Opportunities Section of the Civil Rights Division of the U.S. Department of Justice (DOJ)**: <http://www.justice.gov/crt/complaint/#three>.

- In an emergency, call **911**
- Call the New York State Domestic & Sexual Violence Hotline for assistance and options: **1-800-942-6906/ NYC: 1-800-621-HOPE (4673) or 311**

WHAT TO DO IF YOU ARE SEXUALLY ASSAULTED:

- Get to a safe place. If you are injured or in danger, call 911.
- Seek medical treatment as soon as possible for all HIV post-exposure, sexually transmitted diseases, pregnancy testing, and treatment options at the nearest emergency department.
- HIV post exposure prophylaxis (PEP) should be initiated as soon as possible after exposure, **ideally within 2 hours**. Decisions regarding initiation of PEP beyond 36 hours post exposure should be made on a case-by-case basis.
- Upon arrival, the hospital will offer assistance from a local rape crisis advocate. The advocate will be able to answer any of your questions about a forensic exam, accompany you through the entire examination, and provide follow-up resources.
- A forensic exam, also known as a "rape kit", is the collection of evidence in the emergency department after a sexual assault occurred or within 96 hours.
- To preserve as much DNA as possible, do not shower, use the bathroom, or wash your clothes prior to going to the emergency room.
- If you are uncomfortable with any part of the exam, you do not have to consent.

For more information about what to do after an assault, please call the NYS Sexual Violence Hotline at 1-800-942-6906 to be connected to your local rape crisis center (available 24/7/365) or visit the National Sexual Violence Resource Center website at nsvrc.org.

- In an emergency, call 911
- Call **1-844-845-7269** to report sexual assault on a New York college campus to the New York State Police
- Call the New York State Domestic & Sexual Violence Hotline for assistance and options: **1-800- 942-6906/NYC: 1-800-621-HOPE (4673) or 311**

On average, nearly 20 people per minute are physically abused by an intimate partner in the United States. In one year, this equates to more than 10 million women and men 1 and 2.

HOSPITALS

Local New York State Department of Health-approved Rape Crisis Centers

Flushing:

SAVI Elmhurst Hospital Center
7901 Broadway, Elmhurst, NY 11373

NYC:

St. Luke's Roosevelt Hospital Center Crime Victims Treatment Center
411 West 114 Street #2C, New York, NY 10025

Commack:

The Safe Center LI, Inc.
15-10 Grumman Road West Bethpage, NY 11714

To find a rape crisis center go to:

<http://nyscasa.org/get-help/find-your-local-rape-crisis-program/>

- Within 96 hours of an assault, you can get a Sexual Assault Forensic Examination (commonly referred to as a rape kit) at a hospital. While there should be no charge for a rape kit, there may be a charge for medical or counseling services off campus and, in some cases, insurance may be billed for services. You are encouraged to let hospital personnel know if you do not want your insurance policyholder to be notified about your access to these services. The New York State Office of Victim Services may be able to assist in compensating victims/survivors for healthcare and counseling services, including emergency funds. More information may be found here: http://www.ovs.ny.gov/files/ovs_rights_of_cv_booklet.pdf, or by calling **1-800-247-8035**.

Options are explained here: <http://www.ovs.ny.gov/helpforcrimevictims.html>.
- **To best preserve evidence, victims/survivors should avoid showering, washing, changing clothes, combing hair, drinking, eating, or doing anything to alter physical appearance until after a physical exam has been completed.**

PROTECTION AND ACCOMMODATIONS

LIBI will ensure that individuals are provided the following protections and accommodations:

Interim suspensions will attempt to balance the ability of the accused/respondent to complete their studies with the safety of both the reporting individual and/or the institution community at large.

- When the accused or respondent (covered person) is a student, LIBI will issue a “No Contact Order,” consistent with college policy and procedure. This means that intentionally continuing to contact the reporting/protected individual is a violation of college policy subject to additional conduct charges; if the accused or respondent and a reporting individual/protected person observe each other in a public place, it is the responsibility of the accused to leave the area immediately and without directly contacting the protected person. Both the accused/respondent and reporting individual may request a prompt review of the need for and terms of a No Contact Order, consistent with LIBI policies. Parties may submit evidence in support of their request. LIBI may establish an appropriate schedule for the accused and respondents to access applicable institutional property at a time when the property in question is not being accessed by the reporting individual.
- To have assistance from LIBI officials in initiating legal proceedings in family court or civil court, including but not limited to obtaining an Order of Protection or, if outside of New York State, an equivalent protective or restraining order. Consistent with Section 2265 of Violence Against Women Act, under 18 U.S. Code § 2265, LIBI will treat the process and award of an out-of-state court document equivalent to a New York State Order of Protection.
- To receive a copy of the Order of Protection or equivalent and have an opportunity to meet or speak with a college official who can explain the order and answer questions about it, including information from the Order about the accused’s responsibility to stay away from the protected person(s); that burden does not rest on the protected person(s).
- To an explanation of the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension. Both covered or protected person may request assistance and an explanation.
- LIBI does not employ any security individuals with the authority to make arrests; therefore, LIBI employees will work with local law enforcement in effecting an arrest when an individual violates an order of protection. In accordance with Clery Act requirements, the Title IX Coordinators can assist students in understanding an Order of Protection. Both students who are protected by Orders of Protection and those who are subject to Orders of Protection can seek explanations of such orders from the Title IX Coordinators.

FLUSHING CAMPUS

Adriana Arguelles
718-939-5100 ext.114
aarguelles@libi.edu

COMMACK CAMPUS

Audrey Sumner
631-499-7100 ext. 19
asummer@libi.edu

NYC EXTENSION

April Robinson
212-226-7300 ext. 347
arobinson@libi.edu

- When the accused or respondent is a student and presents a continuing threat to the health and safety of the community, to have the accused or respondent subject to interim suspension pending the outcome of a judicial or conduct process consistent with LIBI’s policies and procedures. Both the accused or respondent and the reporting individual may request a prompt review, reasonable under the circumstances, of the need for and terms of an interim suspension, including potential modification, and shall be allowed to submit evidence in support of his or her request.
- When the accused is not a student but is a member of the college community and presents a continuing threat to the health and safety of the community, to subject the accused to interim measures in accordance with applicable employee handbooks, and college policies and rules.
- When the accused individuals are neither students, nor employees, but are members of the institution community and are determined by the college to present a continuing threat, those individuals will also be subject to interim measures. An example of such interim measures would include a persona non grata letter notifying the individual that they are not allowed on LIBI’s property and that entering LIBI’s property may subject them to arrest or trespassing charges.

- To obtain reasonable and available interim measures and accommodations that effect a change in academic, employment, transportation, or other applicable arrangements in order to ensure safety, prevent retaliation, and avoid an ongoing hostile environment. Parties may request a prompt review of the need for and terms of any interim measures and accommodations that directly affect them. While reporting individuals may request accommodations through any of the offices referenced in this policy, the following office can serve as a point to assist with these measures:

FLUSHING CAMPUS

Catherine Law
Director of Operations

136-18 39th Ave.
5th Floor
Flushing, NY 11354
718-939-5100 ext. 131
claw@libi.edu

COMMACK CAMPUS

Michelle Houston
Assistant Campus Director

6500 Jericho Turnpike
2nd Floor
Commack, NY 11725
631-499-7100 ext. 12
mhouston@libi.edu

NYC CAMPUS

Jhonatan Aybar
Director of Admissions

232 W. 40th Street
Room 901
New York, NY 10018
212-226-7300 ext. 327
jaybar@libi.edu

Interim Measures:

Both the accused or respondent and the reporting Individual shall, upon request and consistent with the LIBI's policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of any interim measure and accommodation that directly affects him or her, shall be allowed to submit evidence in support of his or her request.

STUDENT CONDUCT PROCESS

These rights and rules apply to all students conduct cases where a student is accused of sexual assault, domestic violence, dating violence, stalking, or sexual activity that may otherwise violate LIBI's Code of Conduct.

Note:

- (i) **Sexual assault** is defined to be a Code of Conduct violation consistent with the Federal definition of rape adopted by the Department of Education in Final Regulations (<http://www.gpo.gov/fdsys/pkg/FR-2014-10-20/pdf/2014-24284.pdf>, page 62789), from the Uniform Crime Reporting system of the Federal Bureau of Investigations. "The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim." Consent for these purposes is the consent definition in these policies and the legislation.
- (ii) Per 18 U.S.C. 2246 (2) and (3), "The term "**sexual act**" means – (A) contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight; (B) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; (C) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or (D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; (3) the term "sexual contact" means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person."
- (iii) Advisor means any individual who provides the accuser or accused support, guidance, or advice during institutional disciplinary cases of alleged dating violence, sexual assault, or stalking. By LIBI's policies, an advisor does not have the right to participate in the meetings or hearings, such as making opening or closing statements or questioning witnesses. Since advisors may not speak at the meeting or hearing, LIBI allows advisors to reasonably provide assistance and advice to their student during the course of such a proceeding by allowing for passing of notes and a reasonable number of breaks or recesses. LIBI will not allow attempts to go around these provisions, such as having advisors write every word that their student principal reads verbatim, while

waiting for the advisor to then finish the next sentence of the script. Advisors who violate LIBI's policies may be removed from a hearing or meeting. LIBI will not recess the hearing or allow the student to replace the banned advisor with a new advisor. LIBI will not limit its capacity to conduct its judicial or conduct process in a timely manner, consistent with the Office of Civil Rights Title IX guidance, due to scheduling or other delays (whether genuine or tactical) by an advisor of choice and reserves the right to place reasonable restrictions on participation of advisors. Any party may request up to a five-business day delay in the hearing to allow for the scheduling conflicts of their advisor of choice.

- (iv) Proceeding means all activities related to a non-criminal resolution of an institutional disciplinary complaint, including, but not limited to, fact-finding investigations, formal or informal meetings, and hearings. Proceeding does not include communications and meetings between officials and victims concerning accommodations or protective measures to be provided to a victim.
- (v) Result means any initial, interim, and final decision by any official or entity authorized to resolve disciplinary matters within LIBI. The result will include any sanctions imposed by LIBI. Notwithstanding section 444 of the General Education Provisions Act (20 U.S.C. 1232g), commonly referred to as the Family Educational Rights and Privacy Act (FERPA), the result will also include the rationale for the result and the sanctions.

All LIBI students shall have the right to a process in all student judicial or conduct cases, where a student is accused of sexual assault, domestic violence, dating violence, stalking, or sexual activity that may otherwise violate LIBI's code of conduct, that includes:

- The right to request that student conduct charges be filed against the accused. Conduct proceedings are governed by the procedures set forth in the [College Catalog](#) and the Student Handbook as well as federal and New York State law, including the due process provisions of the United States and New York State Constitutions.
- Throughout conduct proceedings, the respondent and the reporting individual will have:
 - The same opportunity to be accompanied by an advisor of their choice who may assist and advise the parties throughout the conduct process and any related hearings or meetings. Participation of the advisor in any proceeding is governed by federal law and the Student Code of Conduct;
 - The right to a prompt response to any complaint and to have their complaint investigated and adjudicated in an impartial, timely, and thorough manner by individuals who receive annual training in conducting investigations of sexual violence, the effects of trauma, impartiality, the rights of the respondent, including the right to a presumption that the respondent is "not responsible" until a finding of responsibility is made, and other issues related to sexual assault, domestic violence, dating violence, and stalking.
 - The right to an investigation and process conducted in a manner that recognizes the legal and policy requirements of due process (including fairness, impartiality, and a meaningful opportunity to be heard) and is not conducted by individuals with a conflict of interest.
 - Consistent with the Clery Act regulations, 34 C.F.R. § 668.46(k) (2) (v), LIBI simultaneously will provide both the reporting individuals and respondents with written or electronic notices that include the date, time, location, and factual allegations that have been reported as well as a reference to the specific code violations reported to have been breached and their associated sanctions.*
 - The right to have a conduct process run concurrently with a criminal justice investigation and proceeding, except for temporary delays as requested by external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than 10 days except when law enforcement specifically requests and justifies a longer delay.

The right to receive written or electronic notice, provided in advance pursuant to the college policy and reasonable under the circumstances, of any meeting they are required to or are eligible to attend, of the specific rule, rules or laws alleged to have been violated and in what manner, and the sanction or sanctions that may be imposed on the respondent based upon the outcome of the judicial or conduct process, at which time the designated hearing or investigatory officer or panel shall provide a written statement detailing the factual findings supporting the determination and the rationale for the sanction imposed.

- The right to offer evidence during an investigation and to review available relevant evidence in the case file (or otherwise held by LIBI). **
- The right to present evidence and testimony at a hearing, where appropriate.
- The right to a range of options for providing testimony via alternative arrangements, including telephone/videoconferencing, or testifying with a room partition.
- The right to exclude prior sexual history with persons other than the other party in the conduct process or their own mental health diagnosis or treatment from admittance in college disciplinary stage that determines responsibility. Past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the disciplinary stage that determines sanction.
- The right to ask questions of the decision maker and via the decision maker indirectly request responses from other parties and any other witnesses present.
- The right to make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.
- The right to simultaneous (among the parties) written or electronic notification of the outcome of a conduct proceeding, including the decision, any sanctions, and the rationale for the decision and any sanctions.
- The right to written or electronic notice about the sanction(s) that may be imposed on the respondent based upon the outcome of the judicial or conduct process and the rationale for the actual sanction imposed. For students found responsible for sexual assault, the available sanctions are suspension with additional requirements and expulsion/dismissal.
- Access to at least one level of appeal of a determination before a panel, which may include one or more students, that is fair and impartial and does not include individuals with a conflict of interest.
- The right to have access to a full and fair record of a student conduct hearing, which shall be preserved and maintained for at least five years.
- To obtain information regarding the conduct hearing or for access to records contact:

Catherine Law
Director of Operations
 232 W. 40th St.,
 9th Floor
 New York, NY 10018
 212-226-7300 ext. 349
claw@libi.edu

- The right to choose whether to disclose or discuss the outcome of a conduct hearing. ^[12]
- The right to have all information obtained during the course of the conduct or judicial process be protected from public release until the appeals panel makes a final determination unless otherwise required by law.
- The college will provide notice to the respondent and the reporting individual of both the initial outcome and any change in the outcome due to appeal. If there is no appeal, LIBI will provide notice to the parties when the outcome becomes final because the time for an appeal has expired.

¹² This means that students may not be required to sign a non-disclosure agreement or other document forbidding them from discussing their case. This applies to respondents and reporting individuals. Participants are not themselves barred by FERPA from sharing this information. Note, however, that this does not allow students to unreasonably share private information in a manner intended to harm or embarrass another individual, or in a manner that would recklessly do so regardless of intention. Such sharing may be retaliation which can result in separate charges under the Code of Conduct.

In accordance with Educational Law Section 6440(6) transcript notations will apply regardless of whether the violation occurs on campus, off campus, or while studying abroad.

* Delays: LIBI's judicial process will run concurrently with a criminal justice investigation and proceeding, except for temporary delays as requested by external municipal entities while law enforcement gathers evidence. Temporary delays will not last more than ten days except when law enforcement specifically requests and justifies a longer delay. Generalized delays due to scheduling, workload, priority of investigation compared to other open cases, are insufficient. The Title IX Coordinator and in conjunction with the Director of Operations are tasked with the decision whether to delay the institutional process.

** It should be noted that respondents and reporting individuals will have reasonable access to evidence in the case file held by LIBI that may be used in a hearing or investigation and/or may exonerate or show responsibility in the case to the extent that is applicable. LIBI has the right to place reasonable restrictions on access to evidence, such as time, place and manner restrictions, heightened restriction for sensitive information that is not directly relevant to the questions raised in the investigation or hearing, and a limit on students or their advisors of choice engaging in "fishing expeditions" of all records maintained by LIBI that in any way cover any of the parties. The right in the law is to review and to present evidence. There is no requirement that parties or their advisors of choice be provided with a copy of the evidence in question.

RIGHTS OF THE ACCUSED STUDENT

LIBI's process provides prompt, fair, and accessible methods of addressing reports of sexual misconduct. **Both the reporting individual and the respondent have the right:** to be treated with respect, dignity, and sensitivity; to receive appropriate support and interim measures and accommodations from the college; to request and expect privacy to the extent possible consistent with applicable law and college policies; to be provided with information about LIBI's sexual misconduct policies and procedures for students; to have an advisor present throughout the process; to be provided with the option to participate or to decline to participate in the disciplinary process (**a decision not to participate in the process will not prevent the process from proceeding with the information available**); to expect a prompt and thorough investigation of the allegations; to review relevant documents following the investigation; to have an opportunity to challenge the investigator conducting the fact-finding; to a hearing; to a hearing panel comprised of members without a conflict of interest; to an appeal of the decision made by the hearing panel; to an appeal of any sanctions imposed; to notification, in writing, of the case resolution, including the outcome of any appeal; to report the incident to law enforcement at any time; and to understand that information collected in the process may be subpoenaed in criminal or civil proceedings.

INVESTIGATION

Students have the right to an investigation and process that is fair, impartial and provides a meaningful opportunity to be heard, and that is not conducted by individuals with a conflict of interest.

Upon witnessing or receiving a report regarding alleged sexual misconduct, the individual receiving this information must promptly alert the Title IX Coordinator, the Director of Operations & Institutional Effectiveness, the Provost, or the Assistant Campus Director (Commack). The Director of Operations is the person designated to direct the fact-finding probe once an incident or an allegation is reported to determine if there is sufficient information or reasonable basis to proceed with the student conduct process. Reasonable basis is defined as the existence of some credible information to support one or more elements of the violation.

At this juncture, the Director of Operations may dismiss the report if the determination is made that the report does not allege facts that, if substantiated, would constitute a violation of LIBI's policies. If the Director determines that the allegations of the report are outside of the scope of sexual misconduct, the case may be referred to another department for review. The Director also may, at this stage, review available options for resolution with the reporting individual and the respondent, if appropriate. The Director also may determine appropriate interim measures, facilitate accommodations, and initiate an investigation.

If the Director of Operations determines that the allegation merits a Student Conduct Hearing, then the Director will proceed to name and assign an impartial investigator to the case when the accusation

involves any kind of sexual misconduct, including sexual assault, domestic violence, dating violence, or stalking. Once the investigator is named, the Director of Operations will no longer be involved in the fact-gathering stage unless asked by the investigator to assist in the process. While the investigator conducts further inquiry into the case, the Conduct Officer will work with the accused student(s) to ensure that each accused student receives the protections afforded to him/her by the policies printed in the College catalog.

PROCEDURES FOR PRE-HEARING NOTICE TO STUDENT

All conduct related communications will be sent to the physical address and/or e-mail on file in the Registrar's Office. It is the responsibility of every LIBI student to keep the Registrar informed of all addresses and contact information changes. The Conduct Officer will send written "Notice" to the student of the following:

- The nature of the conduct in question and the basis for the allegation, including a brief statement of the preliminary alleged charges against the student, along with references to LIBI's policies/regulations allegedly violated.
- If a hearing was deemed necessary by the Director of Operations, then a general description of the Student Conduct Committee procedures, including the student's right to tell his or her side of the story, will be provided to the student.

The investigator and the Conduct Officer will be the primary contacts for the accused student until the Student Conduct Hearing panel renders a written decision. At the end of the investigation and before the hearing proceedings begin, the investigator or the Conduct Officer will advise the student of the specific charges against the student the hearing panel will be deliberating on. At that time, the student also will be given the opportunity to submit written questions the hearing panel should ask of the witnesses. Although as a matter of practice, LIBI does not permit accused students to face the witnesses against them in front of the hearing panel, in rare circumstances and always at the discretion of the Director of Operations, the accused student may be permitted to do so. Standard operating procedures allow the student to question his or her accusers by writing questions that the hearing panel members will pose to the witnesses during the proceedings. Questions will be reviewed by the Conduct Officer and the investigator for their appropriateness and permissibility pursuant to college policies.

The reporting individual and the Respondent have the right to identify any individuals who may be witnesses to the conduct alleged. Any attempt to threaten, intimidate, or otherwise improperly influence the testimony of a witness will result in disciplinary action. The investigator will attempt to contact and interview any witnesses deemed to have relevant information, including those identified by the reporting individual and the respondent.

The Director of Operations and the investigator will direct the reporting individual, the respondent, any witnesses, and other related to the case individuals to preserve any relevant evidence. Evidence may include any electronic messages (texts, social media posts, emails, etc.) Any documents submitted to the investigator for consideration may become part of the hearing report (in redacted form). Any individual who intentionally manipulates, edits, or fabricates evidence will face disciplinary sanctions. The Title IX Coordinator(s) will be consulted when sexual assault forensic kits are submitted as evidence.

All involved in the hearing (respondent, reporting individual, and witnesses) are expected to provide truthful accounts and not to act maliciously. Individuals who intentionally make false statements in connection with the investigation will be subject to separate disciplinary actions.

Both, the reporting individual and the respondent, should carefully review the investigator's report and any supplemental materials prior to the hearing. Both the respondent and the reporting individuals are permitted to enter written statements in response to the investigator's report addressing their agreement or disagreement with the account. The statement will not be accepted if it was prepared by an attorney. The statement should be no more than five pages and must be submitted at least 24-hours prior to the hearing in order to be considered. Note: This is not an impact statement, rather a response to inaccuracies in the investigator's report.

In general, the parties will be notified at least 3 business days ahead of the hearing by the Director of Operations. All hearings are conducted in closed proceedings. Only the hearing panel, approved witnesses, the parties involved, the investigator, the Conduct Officer, the Director of Operations, and the advisors for the reporting individual and the respondent are permitted to be in the room during the hearing.

Special Note: Cell phones and recording devices may not be used in the hearing room(s) unless approved by the panel in advance.

TRANSCRIPT NOTATIONS

In accordance with Educational Law Section 6440(6) transcript notations will apply regardless of whether the violation occurs on campus, off campus, or while studying abroad.

For crimes of violence, including, but not limited to sexual violence, defined as crimes that meet the reporting requirements pursuant to the federal Clery Act^[13] established in 20 U.S.C. 1092(f)(1) (F)(i)(D)-(VIII), LIBI will make a notation on the transcript of students found responsible after a conduct process that they were "**suspended after a finding of responsibility for a code of conduct violation**" or "**expelled after a finding of responsibility for a code of conduct violation.**" For the respondent who withdraws from the college while such conduct charges are pending, and declines to complete the disciplinary process, LIBI will make a notation on the transcript of such students that they "**withdrew with conduct charges pending.**" A student whose transcript states "Suspended after a finding of responsibility for a code of conduct violation" may appeal, in writing to the Provost to have the notification removed. Appeals may be granted provided that:

- One year has passed since the conclusion of the suspension;
- The terms of suspension were completed and any conditions thereof were met;
- Upon the recommendation of the Title IX Coordinator and appropriate administrators, the student is determined once again to be "in good standing" with all applicable college policies and academic and non-academic standards.

LIBI will not remove notations for expulsion.

If a finding of responsibility is vacated for any reason, LIBI will remove such notation from the student's transcript.

For more information please see Policy on Transcript Notation visit LIBI's website: <http://www.libi.edu/footer/policy-and-procedure-for-transcript-notation.pdf>

VIOLATIONS UNDER §6444(6) THAT REQUIRE TRANSCRIPT NOTATION

Violations equivalent to crimes of violence, as defined in the Clery Act (as updated by the Violence Against Women Act Final Regulations) Part I crimes, as set forth in 34 C.F.R. §668.46(c), that require a transcript notation under §6444(6) are: **murder; manslaughter; rape, fondling, incest and statutory rape; robbery; aggravated assault; burglary; motor vehicle theft; and arson.** LIBI may include transcript notations for additional violations. The relevant definitions defined in accordance with the Federal Bureau of Investigation's Uniform Crime Reporting and set forth as Appendix A to Subpart D of Part 668, the Final Regulations to implement the Violence Against Women Act Amendments to the Clery Act in the Federal Register, Vol. 79, No. 202, October 20, 2014 at pages 62,789-62,790 are:

- **Criminal Homicide: Manslaughter by Negligence:** The killing of another person through gross negligence.
- **Criminal Homicide: Murder and Nonnegligent Manslaughter:** The willful (nonnegligent)

13 Violations equivalent to the Clery Act (as updated by the Violence Against Women Act Final Regulations) Part I crimes covered under the legislation that would require a transcript notation are: murder; rape, fondling, incest and statutory rape; robbery; aggravated assault; burglary; motor vehicle theft; manslaughter; and arson. Institutions may, but are not required to, include transcript notations for additional violations.

killing of one human being by another.

- **Rape:** The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his or her age or because of his or her temporary or permanent mental incapacity.
- **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.
- **Robbery:** The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.
- **Aggravated Assault:** An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. (It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used which could and probably would result in serious personal injury if the crime were successfully completed.)
- **Burglary:** The unlawful entry of a structure to commit a felony or a theft. For reporting purposes this definition includes: unlawful entry with intent to commit a larceny or felony; breaking and entering with intent to commit a larceny; housebreaking; safecracking; and all attempts to commit any of the aforementioned.
- **Motor Vehicle Theft:** The theft or attempted theft of a motor vehicle.
- **Arson:** Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc. Note that these definitions are not completely consistent with New York State Penal Law.

SANCTIONS FOR VIOLATIONS OF THE STUDENT CODE OF CONDUCT

LIBI is committed to providing an environment where respect, sensitivity, and tolerance are sustained for all members of the college community. LIBI also seeks to foster an environment in which all students and employees feel free to report incidents of harassment, sexual assault, stalking, or domestic violence without fear of retaliation or reprisal. Therefore, the college strictly prohibits retaliation against any individual participating in or cooperating with any investigations or hearings involving such conduct.

Students found responsible, after a process (or take responsibility) for a code of conduct violation that is equivalent to the definitions for Clery Act Part I Primary Crimes, and who are expelled, suspended, and/or withdraw with conduct charges pending, will be subject to transcript notations.

When a student admits responsibility or is found to be in violation of LIBI's policies or regulations, LIBI may impose or defer disciplinary sanctions, as appropriate and applicable. Any sanction may be effective retroactively. The severity of the sanction imposed is based on the seriousness of the violation. All administrators and faculty involved in determining sanctions for students who violate LIBI's policies, procedures, or regulations take into consideration the full context in which the offense took place and the seriousness of the infraction.

DEFINITION OF SANCTIONS

The sanctions for sexual assault, domestic violence, dating violence, stalking and other sex offenses following an on campus disciplinary procedure, may result in expulsion or dismissal without recourse of the individual found responsible. The reporting individual and the respondent are entitled to the same opportunities to have others present during a campus disciplinary proceeding and both shall be

In all cases where there are findings of responsibility, respondents will be subject to a loss of their good disciplinary standing at the college. Depending on the severity of the case, statuses that may be imposed on respondents include but are not limited to: Warning, Disciplinary Probation, Disciplinary Suspension, Exclusion, and Expulsion. Those found responsible may also be subjected to other loss of privileges (e.g., exclusion from extracurricular activities, loss of alumni privileges, loss of ability to enroll at LIBI in the future, etc.); sanctions can also include education and/or training related to domestic violence, sexual misconduct, or harassment, for which the respondent was found responsible.

informed of the outcome of such proceeding alleging sexual assault. Additionally, the College will vigorously pursue criminal sanctions against any violator.

Where it is more likely than not that a student violated LIBI's policies, procedures or regulations acting against any person or group because of the race, color, national or ethnic origin, alienage, sex, gender, gender identity, sexual orientation, religion, age, marital status, veteran status, physical or mental disability, or perceived membership in any of these classifications, the recommendation or imposition of sanctions will be enhanced. More than one of the sanctions listed below may be imposed for any single violation.

Sanctions may include, but are not limited to: dismissal without recourse; dismissal with a time sanction before the student can seek readmission; temporary suspension with conditions; temporary suspension with set time away from the college as sole sanction; required enrollment in and completion of educational programs, courses, activities, or workshops, which in the judgment of LIBI will be beneficial to the student; fulfillment of assigned community service hours required of the student as an unpaid volunteer in activities for which no academic credit may be received, etc.

Sanctions for sexual assault or any non-consensual sexual act will normally range from multi-semester suspension to dismissal without recourse (permanent expulsion) from the college, with dismissal without re-course being the most likely sanction.

The determination to suspend, dismiss, or dismiss without recourse a student found responsible for any type of sexual assault, or sexual misconduct takes into account numerous factors, including (1) the specific gender-based misconduct involved; (2) the circumstances accompanying the lack of consent and whether intentional incapacitation, using alcohol, drugs, or by other means, occurred; (3) whether a weapon was involved; (4) the impact of the offense on the complainant; (5) the respondent's prior disciplinary history; and (6) the safety of the college community.

Sanctions for attempted non-consensual sexual intercourse will normally range from suspension to dismissal (expulsion).

In addition to LIBI's judicial sanctions, the college will vigorously pursue criminal sanctions against any member of the LIBI community found responsible for sexual assault or any sexual misconduct that accompanies the lack of consent and takes place on campus.

DEFINITIONS OF DISCIPLINARY STATUSES AND SANCTIONS

- a. **Warning** – Written notices are issued to students for violations of institutional rules or regulations that do not warrant more severe sanctions, but are, nevertheless, considered unacceptable behavior by the Faculty and administrators of the College. Students placed on "Warning" will receive an official letter outlining the reasons for the decision and the waiting time for which the warning will stay in effect. Other requirements or stipulations will also be outlined in the "Warning" letter. Students who receive a written warning from the College should meet with their assigned Academic Advisor regularly to ensure that the requirements stipulated in the warning letter are being met. If the conditions outlined in the warning letter are not met as prescribed, the Warning may be extended upon the discretion of a Senior College Administrator. Students who violate the terms of the warning letter, or who violate additional policies while on "Warning" will face additional disciplinary actions.
- b. **Disciplinary Probation** – A formal written reprimand issued to students for a designated period of time for violating specific College policies. If a student is found to violate any additional College policies during the time he or she is on Disciplinary Probation, more severe disciplinary sanctions will be applied. Depending on the severity of the student's transgression while on Disciplinary Probation, or if the transgression endangers the safety and well-being of other members of the College, the student may be suspended immediately until an administrative investigation is complete. Certain transgressions carry the penalty of immediate dismissal without recourse. For a more detailed listing of violations and possible disciplinary consequences, please refer to the Student Code of Conduct section of this catalog.
- c. **Loss of Privileges** – A sanction imposed for violating a policy in a specified area of the College or in the classrooms. This sanction is imposed for a designated waiting period. The length of this sanction may be extended if the student violates the original stipulation.
- d. **Exclusion** – In some instances, the College may exclude the student from specified areas of the campus, College activities, or functions, or from a program course, as part of a disciplinary action against the student. This may be done if there is cause for the College to believe that

the student's presence will lead to physical abuse, threats of violence, or conduct that threatens the health or safety of any person on LIBI property, or at official College functions or activities. Exclusion from participation in designated privileges and extracurricular activities may be permanent or for a specified term or terms. Violation of any conditions in the notice of loss of privileges and exclusion from activities or violation of LIBI policies or regulations during the period of the sanction will result in further disciplinary action.

- e. **Restitution** – If a student is found to have caused damage to the property of another member of the LIBI community or to the property or facilities of LIBI, the student may be asked to compensate the affected party either monetarily or by material replacement. Restitution can also take the form of appropriate service. A Student Conduct Hearing panel will determine the appropriate compensation for loss, damage, or injury unless the appropriate law enforcement body has already been involved and the incident is being handled through legal action. If the incident is not being resolved through legal action but rather through LIBI's conduct hearing process, students have the right to appeal the rulings of the hearing panel to the President of the College.
- f. **Discretionary Sanctions** – In certain cases the Student Conduct Hearing panel may determine at the panel's discretion that violations of LIBI's policies may be handled through work assignments, essays, service to LIBI, volunteer work in the community, or through related discretionary assignments. In all such discretionary cases, the Director of Operations will work with the panel and the student to ensure that the conditions of the sanctions can be met successfully.
- g. **Suspension** – This sanction calls for the student's separation from the College for a definite waiting period. Certain violations and transgressions warrant a student's suspension from LIBI without the ability to submit work during the investigation process. In most cases where an administrative inquiry or investigation is necessary, however, the student involved in the alleged incident will be suspended from campus but permitted to turn work in to their instructors until the investigation is complete and a Student Conduct Hearing is scheduled. The Conduct Officer will communicate with the accused student and ensure that the student understands the charges against him/her and rights of the accused under LIBI's policies.
- h. **Interim Suspension** – An interim suspension may be imposed before a hearing to determine the validity of an alleged violation in instances where the student's presence on campus is deemed a threat to the safety and security of other members of the LIBI community or may be disruptive to the normal functioning of the College. In general, LIBI will attempt to minimize restricting students from academic participation before a conduct hearing unless there is reasonable cause to believe that the student's continued participation in classroom activities or presence at the campus will lead to physical abuse, threats of violence, or may be disruptive to the orderly operation of the campus. The Director of Operations may also limit the student's participation at official College functions if that is deemed necessary for the safety of other members of the LIBI community. If the interim suspension is imposed by any other member of the LIBI faculty or staff, the President, the Director of Operations, or the Provost will review the information upon which the suspension was based to affirm that it was necessary. This review should take place within forty-eight hours after the imposition is made. Only the President or the Director of Operations, in consultation with the Provost, may determine if the interim suspension will be deemed void or if it will be upheld. Should the determination be made that the interim suspension is void a reasonable effort will be made to inform the student who was suspended. The decision to void the interim suspension will in no way interfere with the need for any disciplinary proceedings related to the conduct that caused the interim suspension. All disciplinary proceedings in these instances will be conducted under the normal procedures prescribed by LIBI for such violations. If the imposition of the interim suspension is upheld, the Registrar or the Conduct Officer will notify the student subject to the suspension in accordance with written policies (i.e., the student will be notified of the charges against him or her, the conditions of the interim suspension, and the opportunity for a hearing.) Hearings where interim suspension was sanctioned will receive scheduling priority. Disciplinary proceedings arising from the conduct resulting in the interim suspension will follow normal procedures.
- i. Students who continue to violate or repeat a violation after receiving a verbal notice of a violation of policies or a reprimand from one of LIBI's administrators or from any of their fac-

ulty members, will face additional disciplinary action up to and including dismissal without recourse.

- j. **Expulsion** – Students who consistently violate LIBI policies, pose a clear and credible danger to other members of LIBI, intentionally or unintentionally endanger the safety or well-being of other members of the LIBI community, or whose transgressions fall into the "immediate dismissal" category as outlined in the Code of Conduct, will be asked to permanently separate from the College. In cases where credible evidence, such as surveillance camera videos, or other similarly reliable evidence exists, expulsion from the College may be immediate and without the involvement of the student conduct hearing panel. The Director of Operations or the Assistant Campus Director will handle such cases. Only the President of the College can revoke an expulsion of a student and only in the event that the student provides reliable and verifiable evidence in his or her favor. Re-admission requests to the College once a student is subject to expulsion will generally be denied.
- k. Readmission to any campus of the Long Island Business Institute after Expulsion may only be granted under exceptional circumstances and requires the specific approval of the Exceptions Committee.

RESOURCES

LIBI maintains current listings of SAFE hospitals to refer students to should a sexual assault forensic examination be necessary. All administrators and faculty have access to copies of the SAFE designated hospital listings. The SAFE designated list includes local health care facilities that provide sexual assault nurse examination services and are required by law (including the Violence Against Women Act, codified at 42 U.S.C.A. § 3796gg-4; and N.Y. Exec. L. § 631(13)) to provide these examinations to college students without a fee.

STUDENT ONBOARDING AND ON-GOING EDUCATIONAL PROGRAMS

LIBI strives to provide useful and relevant risk reduction and prevention workshops and programming. Members of the college community have access to educational programs that help individuals better understand the nature and dynamics of sexual assault, stalking, and domestic/ intimate partner violence, and the means to reduce their occurrence and ways to prevent them from happening. By inviting and working with organizations such as the Justice Center, Womankind, and OneLove Foundation, LIBI strives to offer prevention education that provides relevant information, including education on bystander intervention, the importance of peer support, counseling help, and the importance of encouraging responsibility within the community. LIBI incorporates information about prevention education in the New Student Orientation and in the First Year Seminar course. Information about prevention programs is freely available for students to take from designated areas around the campuses, including by the Safety and Security bulletin boards, Student Success Center, Career Services, and the Library. Additionally, through LIBI's participation in the OneLove Foundation students are encouraged to participate in "the Escalation Workshop" which is a film-based discussion about the warning signs of relationship abuse. The workshop consists of a film, Escalation, which is guided by one of LIBI's trained facilitators. LIBI's involvement in OneLove aims to help students better understand and recognize unhealthy and dangerous relationship behaviors if/when they start to see them developing. The premise behind this program is to better educate the community on an ongoing basis throughout the academic year, to start conversations about the differences between healthy and un- healthy relationships, and to empower members of the LIBI community to refuse to become a statistic in relationship abuse reports.

Creating a safe, healthy, legitimizing, and empowering environment involves a multitude of factors, including ongoing educational programs, support, and assistance. LIBI takes a holistic approach to creating a non-judgmental environment where students can seek help when they need it, and where everyone feels supported in their own journey to independence and empowerment. One factor that LIBI has recognized to be correlated to domestic/intimate partner abuse, stalking, and sexual assault is the presence of, or abuse of, drugs and alcohol when these incidents take place. LIBI's Alcohol and

Other Drugs Committee (AOD Committee) takes an active role in bringing information and educational programs to LIBI. The AOD Committee administers anonymous surveys to determine the level of alcohol and illicit drug use by members of the community with the intent to offer more targeted educational programming and to make assistance available to those who are ready to get help. The Safety and Security boards include extensive information about the harmful effects of alcohol and drug abuse, speakers are invited throughout the academic year, and general education courses include topics aimed at raising greater community awareness and to provide avenues that allow those who need assistance to seek it. Pamphlets are available in various languages prevalent on campus to encourage the community to read and to educate themselves further on the destructive and dangerous effects of alcohol and drug consumption.

For LIBI to ensure that students attending its three locations receive the same level of support and assistance, the college provides ongoing training for staff and interested faculty about the prevention and handling of sexual assaults, stalking and domestic/intimate partner violence. Student Services staff, including Academic Advisors, Career Services staff, the Directors of these departments, the Director of Intercampus Activities, the Librarians, the Provost, and the Academic Directors are all trained to intervene and assist. Other interested members of the community, including faculty, are invited to participate in all training available to the trained staff.

The office of the President and the Provost jointly monitor compliance with this policy at all three LIBI locations through the direct oversight of the Assistant Campus Director, the Director of Operations & Institutional Effectiveness, the Internal Auditor, and Chair of the Safety and Security Committee. These individuals are responsible for ensuring that the three LIBI locations are provided with all relevant educational materials and that those materials are readily available to the students at each location. The members of the Safety and Security Committee and the AOD Committee review the safety and drug and alcohol awareness activities in quarterly meetings and make recommendations for changes, as necessary or appropriate. LIBI officially reviews its policies and procedures annually and republishes any changes. Changes are sent to the community and published on LIBI's website.

INSTITUTIONAL CRIME REPORTING

Information regarding institutional crime reporting including, but not limited to: reports of certain crimes occurring in specific geographic locations that are included in LIBI's annual security report (ASR) pursuant to the Clery Act, 20 U.S.C. 1092(f), in an anonymized manner that identifies neither the specifics of the crime nor the identity of the reporting individual. LIBI is obligated to issue timely warnings of crimes enumerated in the Clery Act occurring within relevant geography that represent a serious or continuing threat to students and employees, except in those circumstances where issuing such a warning may compromise current law enforcement efforts or when the warning itself could potentially identify the reporting individual. A reporting individual will never be identified in a timely warning.

The Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, allows institutions to share information with parents when (1) there is a health or safety emergency, or (2) when the student is a dependent on either parent's prior year federal income tax return. Generally, LIBI will not share information about a report of domestic violence, dating violence, stalking, or sexual assault with parents without the permission of the reporting individual.

INFORMATION FOR INTERNATIONAL STUDENTS

IMMIGRATION & VISA INFORMATION FOR VICTIMS OF SEXUAL & INTERPERSONAL VIOLENCE:

International students with questions about their immigration and visa status are advised to seek the assistance of an immigration attorney. This document is a resource to explain certain aspects of the law, not a replacement for legal advice.

(1) I've been a victim of assault, does my immigration status affect my ability to access on-campus resources?

No. Under the law, students and staff who are victims or survivors of sexual and interpersonal violence receive the same rights under Title IX of the 1972 Education Amendments (Title IX) and the Violence Against Women Act (VAWA), regardless of immigration and visa status. Information about medical and counseling resources, as well as available accommodations, may be found at [What to do if you are sexually assaulted](#).

Information about the student conduct process may be found at [Student Conduct Process](#). **The College will not retaliate against you or treat you differently on the basis of reporting a crime.**

(2) Can I press criminal charges as a documented or undocumented immigrant?

Yes. Information about your New York State's criminal definitions of sexual assault, domestic violence, dating violence and stalking may be found in the [Annual Security Report](#). Specific questions about filing charges may be addressed to Catherine Law by e-mail: claw@libi.edu or by telephone at **212-226-7300 ext. 349**, or to Internal Auditor William Chung by e-mail: wchong@libi.edu or by telephone at **212-226-7300 ext. 505**, or to the Chair of the Safety and Security Committee Julia Scalia by e-mail: jscalita@libi.edu or by telephone at **212-226-7300 ext. 342**.

(3) Are there specific visa and immigration statuses for victims of crimes?

Yes. For victims of sexual assault, domestic violence, dating violence and stalking, there may be other visa options, including U and T Visas. **For specifics, talk to an immigration attorney.** Information and links to legal resources are provided under [Where can I find a local immigration attorney?](#) section of this document.

(4) Is there an office on campus that can provide me additional information?

LIBI's Designated School Official (DSO) and Principal Designated School Official (PDSO) can provide useful information regarding immigration status. Note that for questions regarding changes to other visa statuses, or legal options that fall outside of standard F-1 student visas, or employer-sponsored work visas, consult a qualified immigration attorney.

VISA OPTIONS – F-1

Options for reduced course-load approval due to medical conditions certified by a licensed medical doctor, doctor of osteopathy, or licensed clinical psychologist.

- Options for, and consequences to, withdrawing from your academic program.
- Information about returning to the academic program at a later date, if the student chooses to withdraw.
- Options and consequences for accompanying spouses.
- General information on options for changing visa status.
- General information on U and T visas (Referral to a qualified immigration attorney).
- Referral to a qualified attorney.

WHAT IS AN IMMIGRATION LAWYER AND WHAT DO THEY DO?

Immigration lawyers are licensed attorneys who specialize in the field of immigration law. They function as the client's advocate, and can represent them before immigration agencies, both in immigration court as well as in filing applications for immigration benefits. The lawyer can give general

advice and can discuss immigration options. Like all lawyers, immigration lawyers are bound by professional ethical and legal requirements, and keep client discussions confidential.

WHERE CAN I FIND A LOCAL IMMIGRATION ATTORNEY?

U.S. Citizenship and Immigration Services (USCIS), a bureau of the Department of Homeland Security (DHS), offers two sites to help individuals **find free or low-cost legal representation**:

- Find Help in Your Community: <https://www.uscis.gov/citizenship/learners/find-help-your-community>
- Find Legal Services: <https://www.uscis.gov/avoid-scams/find-legal-services>
- The Board of Immigration Appeals (BIA) provides a [listing of attorneys by state who provide immigration services either for free or for little cost](#).
- The [American Immigration Lawyers Association](#) (AILA) offers an online [Immigration Lawyer Referral Service](#) that can help a student or scholar find an immigration lawyer.

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- » [Definition of Affirmative Consent](#)
 - » [Policy for Alcohol Drug Amnesty in Sexual Violence](#)
 - » [Campus Climate Assessment Policy](#)
 - » [Students' Bill of Rights](#)
 - » [Sexual Violence Reporting Policy](#)
 - » [Options for Confidentially Disclosing Sexual Violence](#)
 - » [Sexual and Interpersonal Violence Response](#)
 - » [Student Onboarding and Ongoing Education Guide Policies](#)
 - » [Transcript Notation](#)
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SECTION II

TITLE IX AND SEX DISCRIMINATION

Title IX of the Education Amendments of 1972 states that “no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

LIBI does not discriminate on the basis of sex in recruitment, admissions, or counseling; in providing financial assistance; in treatment of pregnant and parenting students; in disciplinary actions the college imposes on students; or in employment. LIBI does not in any way retaliate against any student or employee for opposing an unlawful educational practice or policy, or anyone who made charges, testified or participated in any complaint action under Title IX.

Under Title IX, discrimination on the basis of sex includes sexual harassment or sexual violence, such as rape, sexual assault, sexual battery, and sexual coercion.

Anyone – of any gender, gender identity, or sexual orientation, can suffer from sexual harassment, including sexual violence. Anyone – of any gender, gender identity, or sexual orientation, can suffer from sexual harassment, including sexual violence.

LIBI'S RESPONSIBILITIES TO ADDRESS SEXUAL HARASSMENT AND SEXUAL VIOLENCE

LIBI has a responsibility to respond promptly and effectively to sexual harassment and sexual violence reports. If the college knows or reasonably should know about sexual harassment or sexual violence that creates a hostile environment, the college must take immediate action to eliminate the sexual harassment or sexual violence, prevent its recurrence, and address its effects. Even if a student does not want to file a complaint or does not request that the college take any action on the student's behalf, if LIBI knows or reasonably should know about possible sexual harassment or sexual violence, it must investigate promptly to determine what occurred and then take appropriate steps to resolve the situation. A criminal investigation into allegations of sexual harassment or sexual violence does not relieve the college of its duty under Title IX to resolve complaints promptly and equitably. This means that LIBI will proceed with its judiciary process independent of law enforcement and any legal proceedings that may be underway.

SEXUAL HARASSMENT POLICY STATEMENT

The Long Island Business Institute (LIBI or “the college”) is committed to fostering a diverse community of employees and students, as well as ensuring equal educational opportunity, employment, and access to services, programs, and activities, without regard to an individual's race, color, national origin, religion, creed, age, disability, sex, gender identity, gender expression, sexual orientation, familial status, pregnancy, predisposing genetic characteristics, military status, domestic violence victim status, or criminal conviction. Employees, students, applicants, or other members of the college community (including but not limited to vendors, visitors, and guests) may not be subjected to harassment that is prohibited by law, treated adversely, or retaliated against based upon a protected characteristic. LIBI strongly condemns sexual harassment in any form. Such behavior is a violation of LIBI's policies and of both federal and state laws. LIBI will take any and all action needed to discourage, prevent, correct, and discipline due to behavior that violates this policy. The college directs all incidents of sexual harassment to the Title IX Coordinators for examination and action regardless of who receives the complaint.

All victims of such harassment should contact:

FLUSHING CAMPUS

Adriana Arguelles
718-939-5100 ext.114
aarguelles@libi.edu

COMMACK CAMPUS

Audrey Sumner
631-499-7100 ext. 19
asumner@libi.edu

NYC EXTENSION

April Robinson
212-226-7300 ext. 347
arobinson@libi.edu

DEFINITIONS

Sexual harassment is unwanted or unwelcome behavior of a sexual nature that interferes unreasonably with a student's ability to learn, study, work, achieve, or participate in school activities.

Typical harassment complaints include: making sexual comments, jokes, gestures, or looks; claiming that a person is gay, lesbian, transgender; spreading sexual rumors about a person; touching, grabbing or pinching someone in a sexual way; intentionally brushing up against someone in a sexual way; and flashing or "mooning" someone.

Sex discrimination includes, but is not limited to sexual harassment, sexual violence, sexual assault, domestic violence, dating violence, stalking, and cyber-stalking.

SEXUAL HARASSMENT IN THE EDUCATIONAL SETTING IS DEFINED AS:

Unwelcome conduct of a sexual nature. Sexual harassment can include **unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature.** Sexual harassment denies or limits, on the basis of sex, the person's ability to participate in or to receive benefits, services, or opportunities in the educational program and/or employment.

HARASSMENT ON THE BASIS OF PROTECTED CHARACTERISTIC(S) OTHER THAN SEX/GENDER

Harassment based on race, color, age, religion, national origin, disability, sexual orientation, gender expression, genetics, familial status, pregnancy, domestic violence victim status, criminal conviction, veteran status or other protected characteristics is **oral, written, graphic or physical conduct relating to an individual's protected characteristics that is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the educational programs or activities offered by the college.**

CONFIDENTIALITY

The college is committed to protecting the confidentiality of all reporting individuals and will work closely with victims to obtain confidential assistance regarding any incident of sexual harassment.

RETALIATION

College policies and state law prohibit retaliation against any individual who opposes sexual harassment, files a complaint, or assists or participates in any manner in an investigation or proceeding conducted by the college or an external agency. Violation of this policy is subject to disciplinary action, up to and including dismissal. Sexual harassment, in any form, will not be tolerated; retaliation, in any form, also will not be tolerated.

SEXUAL MISCONDUCT

Sexual misconduct encompasses a broad range of inappropriate and disrespectful conduct and communication of a sexual nature for sexual purposes against another person's will and/or at the expense of another. Sexual misconduct includes, but is not limited to sexual harassment, sexual violence, sexual assault, intimate partner violence, stalking of a sexual nature, cyber-stalking of a sexual nature, and/or any conduct of a sexual nature that is non-consensual, or has the effect of threatening or intimidating another person.

Sexual harassment covers a range of behaviors, including but not limited to: touching, pinching, or grabbing body parts; sending sexual notes or pictures; writing sexual graffiti on bathroom walls; making suggestive or sexual gestures, looks, jokes, or verbal comments; spreading sexual rumors or making sexual propositions; pulling someone's clothes off; pulling one's own clothes off; sexual assault; and rape.

HARASSMENT POLICY

LIBI's Harassment Policy prohibits many forms of unwelcome conduct, including but not limited to, physical conduct of a sexual nature. This policy specifically covers sexual assault, domestic and intimate partner violence, and stalking committed against students on- and off-campus. Through this

Sexual harassment need not occur on campus or on LIBI's property to be considered harassment. A student can be harassed by faculty, other students, or anyone else with whom the student interacts while at LIBI or while engaging in college-related activities.

policy LIBI seeks to inform all victims of sexual assault, stalking, and domestic and intimate partner violence that LIBI has designated employees who are able to assist students who are or have been victims to obtain help, including medical care, counseling, and other essential services. If the alleged perpetrator is also a member of the LIBI community, the college will take prompt action to investigate, and, where appropriate, to discipline and to sanction the alleged perpetrator. All victims are strongly advised to seek immediate help in accordance with the guidelines outlined in this policy. Victims should be assured that LIBI will handle all confidential information related to the incident as discreetly and confidentially as feasible without further endangering the complainant. To create a safe college environment and to prevent sexual assault and other forms of violence involving members of the LIBI community, the college provides appropriate prevention educational programs and ensures that students have access to vital support services. To achieve these goals LIBI commits to the following:

- To provide students with clear procedures to follow if they or someone they know is the victim of a sexual assault, domestic/intimate partner violence, or stalking.
- To assist victims of sexual assault or abuse in obtaining necessary medical care, counseling, or other appropriate assistance.
- To provide students with information through sponsored educational programs and workshops about how to identify situations that involve sexual assault, domestic and intimate partner violence, or stalking, ways to prevent these forms of violence, and how to obtain assistance if they occur.
- To educate and to train college employees, including student services staff and faculty, to assist victims of sexual assault, of domestic/intimate partner violence, or of stalking.
- To follow disciplinary procedures as outlined if the alleged perpetrator is another LIBI student or employee.

HOW DO I KNOW IF WHAT I AM EXPERIENCING IS HARASSMENT?

Harassment is whenever you receive any unwanted contact **that makes you feel uncomfortable**. This contact can be in person or via technology, such as phone calls, text message, e-mail, or social media.

If someone is bothering you, you have a right to be free from that harassment.

WHEN IS IT MORE THAN JUST HARASSMENT?

Harassment can escalate into bullying, stalking, domestic violence, sexual assault, or even physical harm. This occurs when, in addition to unwanted contacts, the harasser also uses other forms of abusive or harmful tactics. Some of these other tactics include, but are not limited to inciting others to participate in the harassment, controlling the victim's movement and free will, or harming the victim emotionally or physically.

WHAT TO DOCUMENT

For abusive or harassing messages, print out, take a screen shot, or take a picture of the message. Be sure to include the username of the person who posted or sent the message. If it is a voicemail, you may be able to record it using your answering machine or the voice recorder on your phone.

When documenting e-mail, be sure to record the full header. The full header will include additional information, including the sender's IP address.

Some online platforms, such as Gmail and Facebook, allow you to see when and what devices have accessed your account. This can show if someone other than you have logged into your account.^[1]

In a study conducted by the National Network to End Domestic Violence, victim service providers report that of the survivors they work with, 75% have abusers who access their online accounts, 65% have abusers who monitor their online activities, and 68% have had their pictures posted online by

¹ "What to Document." Resources, techsafetyapp.org/Resources/documenting-evidence

the abuser without their consent. In a survey by the Cyber Civil Rights Initiative, when abusers and stalkers distribute sexually explicit images of victims, 59% include the full name of the victim, 49% include social media information, and 20% include the phone numbers of the victim. Online harassment, in the context of abuse and stalking, can have serious and dangerous consequences. <https://www.techsafety.org/blog/?tag=online+safety>

If you suspect that you are being stalked or harassed through technology, visit the Tech Safety Website
<https://techsafetyapp.org/>

ONLINE SAFETY FOR SURVIVORS

Don't forget that apps on your phone can track your location -- but it is easy to manage it by going into your phone settings and turning it off.

Online safety is a major concern for many survivors of domestic and sexual violence. We live in a data-driven world where even if we aren't sharing our secrets, someone else is. Review the settings on your phone to limit your location sharing - you might be sharing without meaning to. Put a passcode on your phone so that if someone else picks it up, they can't go through your stuff.

Spyware can be downloaded onto your phone if someone has access to your phone or you inadvertently open and install links or attachments. Don't allow other people access to your phone, since most cell phone spyware require access to the device to install. Don't download or open attachment or links from people you don't know or think may want to track you. As much as you can, know what applications are on your phone. If you don't know what it is, delete it.

PICTURES AND VIDEOS ON LIBI'S WEBSITE AND SOCIAL MEDIA

If you do not remember if you signed a consent/release form when you entered the college, please see the Registrar or your Academic Advisor.

The safety of our students and employees is LIBI's primary concern. Because colleges and universities are increasingly utilizing visual communications to engage the internal and external community, LIBI asks all students for permission to use their images, photographs, videos, and quotes attributed to specific individuals. All new students are asked to read and fill out a picture/video release and consent form when they apply to the college. This form tells the college that the person who signed the consent form is giving the college permission to post his or her pictures and videos on our website and/or social media. Individuals who have safety concerns should indicate on the consent form that they do not wish to be photographed or taped. Permission can be initially given but later rescinded by going to the Registrar or Academic Advising and filling out a new form.

SEXUAL OFFENDER COMMUNITY NOTIFICATIONS

Under the provisions of the Family Educational Rights and Privacy Act, as amended by the Campus Sex Crimes Prevention Act, and the New York State Sex Offender Registration Act, LIBI will disclose information concerning Registered Sex Offenders. The purpose of this reporting is to ensure that members of the campus community have information available concerning the presence of Registered Sex Offenders. Any person who is required to register as a Sex Offender in New York shall provide notice as required under state law. The state is required to report such information concerning Registered Sex Offender's enrollment or employment and to make this information available promptly to college administration. The registry of Sex Offenders in New York can be obtained by checking the <http://www.criminaljustice.ny.gov/nsor/>.

www.libi.edu

FLUSHING MAIN CAMPUS

*136-18 39th Avenue, 5th Floor
Flushing, NY 11354*

718-939-5100

LONG ISLAND CAMPUS

*6500 Jericho Turnpike
Commack, NY 11725*

631-499-7100

LIBI NYC Center

*232 W. 40th Street, 9th Floor New
York, NY 10018*

212-226-7300