

## ENOUGH IS ENOUGH

### MERKAZ Bnos GUIDE ON SEX VIOLATIONS AND DRUG ABUSE, AND THEIR PREVENTION

#### INTRODUCTION

Merkaz Bnos addresses the students' safety concerns, particularly as related to New York Education Law 129-B, in the context of its students cultural sensitivities. Currently, Merkaz Bnos students who respect modesty and privacy; the related topics are therefore best addressed in written form and with discretion. Explicit public discussion of sexual matters may cause discomfort to many students and offend them.

The current Guide should serve as an enhanced reference source to clarify and interpret the clauses covered in various parts of other currently circulating Merkaz Bnos documents and materials such as *Merkaz Bnos Student Information Handbook*, *Merkaz Bnos Code of Conduct*, *Students' Bill of Rights* and the like. It may also be used for clarification of the clauses covered by *Education Law Article 129-B*, as added by Chapter 76 of the Laws of 2015.

This Guide may be used by Merkaz Bnos student community, faculty, administration and staff. This document may be expanded if the need arises with the changes in the student population characteristics, student population size, upon an analysis of the Merkaz Bnos status and its experience in dealing with sex crimes and drug abuse issues.

#### NECESSARY DEFINITIONS:

Merkaz Bnos is a Higher Education Institution registered by the New York State Department of Education and accredited by Middle States Association of Colleges and Schools. It is located at 2115 Benson Avenue, Brooklyn, New York 11214.

*Merkaz Bnos Title IX Coordinator* is Mrs. Marina Lebedeva Director. Merkaz Bnos Title IX Coordinator may delegate his/her role in this capacity to other individuals.

*Bystander* is a person who observes a crime, violent conflict, behavior or conduct in violation of rules or policies of Merkaz Bnos. *Bystander* is not considered a victim or survivor, and has not the rights under federal or state law as a "reporting individual".

*Merkaz Bnos Code of Conduct* is the Merkaz Bnos document containing policies governing student's behavior, rights, and responsibilities. The full name of the document is *Student Conduct and Rules for the Maintenance of Public Order*.

*Confidentiality* may be offered only by an individual (s) who is (are) not required by law to report known incidents of sexual assault or other crimes to Institution officials. Usually, these are members of such professions as licensed mental health counselors, medical providers and pastoral counselors. Merkaz Bnos does not have officials that act in this capacity. Persons from the Merkaz Bnos community seeking confidentiality have to look outside of the school. Most rape crisis centers are confidential, and in most cases can provide confidentiality, since individuals working in such organizations have no obligation to report information back to the Merkaz Bnos administration.

*Privacy*, (or *decency* for the purposes of Merkaz Bnos), is not as strict a term as confidentiality. *Decency* may be offered by an Merkaz Bnos employee who will make sure that information learned from a reporting individual or bystander is disclosed only to the appropriate Institution officials.

*Accused* is a person accused of a violation but who is not yet under the Merkaz Bnos disciplinary or conduct process.

*Respondent* is a person accused of a violation who has been placed under Merkaz Bnos disciplinary or conduct process and was notified as such.

*Reporting individual* is a person who, in the capacity of a victim, survivor, complainant, claimant, witness with victim status, brings forth a report of a violation.

*Sexual activity* is synonymous to “sexual act” and “sexual contact” as provided in 18 U.S.C. 2246(2) and 18 U.S.C. 2246(3). For a more detailed description please refer to the federal statutes. Individuals must obtain affirmative consent before engaging in such activity. The concept of affirmative consent is further described in this and other Merkaz Bnos documents. In order to address the cultural sensitivity of Merkaz Bnos, the term “immoral behavior” may be used to denote or refer to improper sexually related behavior.

*Domestic violence, dating violence, stalking, sexual assault* – for definitions of these violations please refer to the Merkaz Bnos document *Student Conduct and Rules for the Maintenance of Public Order (Appendix 1 - Definitions of Reportable Crimes)*

### **General Provisions (Section 6440):**

Pursuant to Article 129-A of the Education Law, Merkaz Bnos has formulated *Student Conduct and Rules for the Maintenance of Public Order (The Student Conduct Code* for brevity). The Code has been designed to protect the health and safety of the members of the school community and to maintain and protect property. These rules extend to all school activities. All students have to observe standards of social conduct and wear appropriate attire. The use of profanity, alcoholic beverages, or drugs is not permitted at any time.

A copy of these rules is given to all students enrolled in Merkaz Bnos. *The Student Conduct Code* is deemed to be part of the by-laws of all organizations operating on the campus of Merkaz Bnos, and is reviewed annually with the individuals affiliated with such organizations.

It is the policy of Merkaz Bnos that any criminal act; act or threat of violence; injury; destruction of school or personal property; or other situation that occurs on school property that may constitute an emergency, a danger to the health and safety, or property of any person, or a threat to the public order be reported immediately to the Administration.

All institutional services and protections afforded to reporting individuals are available to all of Merkaz Bnos students. In case Merkaz Bnos students participate in joint programs with other institutions, Merkaz Bnos might share the records of students, and, in certain cases, allow record sharing with third parties, for the purposes of compliance with this New York State Education Law, as well as relevant federal laws including *Title IX* and the *Clery Act*.

Merkaz Bnos provides a copy of *Student Conduct and Rules for the Maintenance of Public Order* to each student in order to educate the students. The policies are placed in the appropriate sections of the *Student Conduct and Rules for the Maintenance of Public Order*. *The Student Conduct Code* is available on the Merkaz Bnos website. It is also included in the *Merkaz Bnos Student Information Handbook*, which is given to each and every student during the orientation session. Copies of *The Handbook* are available in the Administrative Office of the school.

The rules and protections apply to members of Merkaz Bnos community 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. Merkaz Bnos explicitly prohibits any kind of discrimination.

The following is the quote from the Merkaz Bnos *Student Conduct and Rules for the Maintenance of Public Order*:

### **Unlawful Harassment or Discrimination**

Merkaz Bnos is committed to providing an environment that is free of discrimination and unlawful harassment. Actions, jokes, words or comments based on an individual's sex, race, ethnicity, age, religion, sexual orientation, or any other legally protected characteristic will not be tolerated. Sexual harassment is a form of conduct that is demeaning to another person and is strictly prohibited. Specifically, the school prohibits:

- Unwelcome sexual advances
- Requests for sexual favors
- All other verbal and physical conduct of a sexual or otherwise offensive nature. Anyone engaging in sexual or other unlawful harassment will be subject to disciplinary action up to and including dismissal for students and termination of employment for faculty and staff.

### **Bias Related/Hate Crimes**

According to New York Police Department Guidelines a "Bias Related Crime" or "Hate Crime" is any offense or unlawful act that is motivated in whole or in part by a person's, a group's or a place's identification with a certain race, religion, ethnicity, sexual orientation, disability, gender or age. In order to effectively handle incidents of Bias Related Crimes and prevent future occurrences of such crimes, victims or witnesses of a Hate Crime are encouraged to immediately report the incident to the Administration. Criminal penalties for the commission of a Hate Crime can range from fines to extended prison sentences based on the specifics of the crime. In addition, students guilty of committing a Hate Crime may be subject to a student disciplinary process with sanctions up to, or including, suspension or expulsion from the school.

### **Race or Gender-Based Misconduct Policy Prevention, Response and Reporting**

#### **Procedures**

It is the policy of Merkaz Bnos to provide a safe environment, one that is free from violence, for every member of its community. Accordingly, the school prohibits and does not tolerate acts of race or gender bias misconduct. Bias-related crimes comprise a broad range of behaviors focused on race, sex and/or gender discrimination that may or may not be sexual in nature. Sexual harassment, sexual assault, gender-based harassment, stalking, and intimate partner violence are forms of gender-based misconduct under this policy. Race and gender-based misconduct can be committed by men or by women, and it can occur between people of the same or different race and sex.

This policy applies to all students, faculty, and staff, as well as to visitors' guests, vendors, contractors and other third parties. Violators of this policy are subject to criminal prosecution as well as discipline by Merkaz Bnos, including, but not limited to, termination of employment, expulsion from the school, and/or other appropriate sanctions that may be imposed by the school.

Merkaz Bnos has adopted a prevention and response policy to bias related-based misconduct, and provides for investigation and resolution for those who report instances of such misconduct.

The provisions listed in *The Student Conduct Code* apply regardless of whether the violation occurs on campus, off campus, or while studying abroad.

Merkaz Bnos has utilized applicable state and federal laws, regulations, and guidance in writing the policies of *Student Conduct and Rules for the Maintenance of Public Order*.

Nothing in Merkaz Bnos policies shall be construed to limit in any way the provisions of the penal law that apply to the criminal action against anyone at Merkaz Bnos who violates the *Student Conduct and Rules for the Maintenance of Public Order*.

Merkaz Bnos acknowledges its 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 the actions within the criminal justice.

### **Affirmative Consent to Sexual Activity (Section 6441):**

Merkaz Bnos (see the *Student Conduct and Rules for the Maintenance of Public Order - The Definition of Affirmative Consent in Sexual Activity*) explicitly states that:

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

#### Specific Provisions on Affirmative Consent to Sexual Activity:

- 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 knowingly choose to participate in sexual activity. Incapacitation may be caused by the lack of consciousness or being asleep, being involuntarily restrained, or if an individual otherwise cannot consent. Depending on the degree of intoxication, someone who is under the influence of alcohol, drugs, or other intoxicants may be incapacitated and therefore unable to consent.
- Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
- When consent is withdrawn or can no longer be given, sexual activity must stop.

In addition:

Consent 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.

Being intoxicated is not a license to engage in sexual activity with another person without their consent.

Incapacitated individuals cannot consent to sexual activity or contact. Incapacitation is determined by a student conduct or investigation process based on available evidence.

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

Minors who cannot consent under New York's laws covering age of consent are considered incapacitated.

Whether all parties consented to sexual activity or contact is to be determined through the student conduct or grievance process (see the *Student Conduct and Rules for the Maintenance of Public Order - Student Grievance Procedure*):

### **Student Grievance Procedure**

Merkaz Bnos has internal grievance and complaint procedures to investigate allegations of civil rights discrimination in a prompt and fair manner. The internal procedure for filing and resolving complaints of discrimination may be found in the Student Handbook. Merkaz Bnos reserves the right to make changes in this Catalog. The policies, procedures, regulations, and any other information contained herein are all subject to change. The content in this book are subject to change without notice and are to be used for informational purposes only.

The following is an excerpt from the *Merkaz Bnos Student Information Handbook*, p. 26

### **Student Grievance and Complaint Procedures**

Students should review the *Merkaz Bnos Student Information Handbook*, *School Catalog*, and *Enrollment Agreement* to ensure that indeed a justified complaint exists. The aggrieved student should first bring the matter to the attention of his/her instructor if it involves a classroom issue, or if not resolved, student should contact the Associate Dean for Academic and Student Affairs.

If the student is not satisfied at this level or if the student for some reason feels unable to bring the matter first to the attention of the teacher and/or Associate Dean, the matter should then be brought to the attention of the President. The President may be contacted in person or in writing.

It is hoped that anyone with a complaint about the school, faculty or staff would seek to resolve this complaint with the administration. If complaint cannot be resolved with administration, student may appeal to the Merkaz Bnos Board of Trustees, 2115 Benson Avenue, Brooklyn, NY 11214. However, if the complaint still goes unresolved, it may be filed with the New York State Education Department, Office of Higher Education, Room 977, Education Building Annex, Albany, New York 12234. In addition, complaints may be filed with the New York State Education Department, Bureau of Proprietary School Supervision at the following address: Investigation and Audit Unit, 116 west 32nd Street, 5th floor New York, NY 10001, 212-643-4760

### **Policy for Alcohol and/or Drug Use Amnesty (Section 6442)**

Merkaz Bnos has adopted the *Drug and Alcohol Policy* (see *Student Conduct and Rules for the Maintenance of Public Order - Drug and Alcohol Policy*; also the description of *Health Risks in consuming the Drugs*; the list of those and *Controlled Substances* is also available under the provisions of the quoted *Policy*):

### **Drug and Alcohol Policy**

In compliance with the Drug-Free Schools and Campuses Act Amendments of 1989 (Public Law 101-226), it is the policy of Merkaz Bnos to provide a drug and alcohol free environment conducive to a safe, healthy, and secure educational environment. All members of the Merkaz Bnos community are advised that in compliance with public health codes, federal, state and local statutes, Merkaz Bnos prohibits the unlawful manufacture, sale, purchase, possession, use, or distribution of controlled substances and alcohol at any school facility or at any school activity. Violations of any provisions will result in immediate termination or expulsion. The school supports federal, state, and local laws which make the unauthorized possession, sale, or purchase of controlled drugs and alcohol a crime. In New York State, it is illegal for any person under the age of 21 years to give, sell, or possess any alcoholic beverages for the purpose of consumption. Both the Employee and Student Handbook include information on Merkaz Bnos's drug and alcohol policy. All new students and employees are also provided with the policy, acknowledged at the time of enrollment or hire.

The following is an excerpt from the *Merkaz Bnos Student Information Handbook*,

### **Policy on Substance Abuse and Alcohol**

The United States Department of Education has issued regulations implementing the provisions of the Drug-Free Colleges and Communities Act Amendments of 1989. These regulations require that Merkaz Bnos distribute to you annually, in writing, the following information concerning the possession, use, or distribution of alcohol and illicit drugs in the school.

## **Statement of Policy on Substance Abuse**

While we at Merkaz Bnos feel that an individual's actions are his or her personal responsibility, the possession, use, or distribution of illegal drugs anywhere on campus cannot and will not be condoned. It is a known fact that involvement with drugs may harm an individual personally and professionally.

Since an individual who possesses or uses drugs is violating the law, Merkaz Bnos cannot protect anyone who may break these laws from apprehension and prosecution by civil authorities.

Merkaz Bnos must recognize the interest and rights of the students as well as those in the academic community as a whole. We realize that drug abuse may be a symptom of deeper personal or emotional problems and accept the responsibility for assisting the individual to seek the help that is needed.

Since Merkaz Bnos is also very much a part of the community, we recognize our obligation to show our concern by maintaining the safety and well-being to that community. It is necessary, therefore, to adhere to the following guidelines regarding the unlawful possession, use and distribution of drugs:

- Merkaz Bnos will not tolerate the unlawful use, possession or distribution of drugs anywhere on school property or at any school related activity.
- Upon finding the evidence of the above by any student, Merkaz Bnos will take appropriate disciplinary action including, but not limited to, probation, suspension or expulsion. In addition to the sanctions of Merkaz Bnos, students may also be subject to criminal prosecution under federal and state laws that specify fines or imprisonment for conviction of drug-related offenses. If necessary and appropriate the school will fully cooperate with law enforcement agencies.

## **Statement of Policy on Alcoholic Beverages**

### **Merkaz Bnos Regulations**

The possession or use of alcoholic beverages anywhere in the school is discouraged and restricted. Any serving of alcoholic beverages is governed by the New York State Alcoholic Beverage Control Law and other laws of the State of New York. The following are the policies of Merkaz Bnos:

- Alcohol is banned at all student-sponsored functions
- At all staff functions and/or academic department events which students may attend, the organization sponsoring the activity must see that there is strict adherence to the New York State Alcohol Beverage Control Laws.

### **Alcohol health risks**

Alcohol is chemically known as ethyl alcohol, a colorless liquid, and medically is a depressant that slows the activity of the brain and spinal cord. It has the potential to be abused because it affects the mind. Alcohol is usually ingested orally. One drink is the equivalent of 12 oz. of beer, 5 oz. of wine or 1 ½ oz. of hard liquor. The legal age for sale and consumption of alcohol is 21 in New York State. People who abuse alcohol may harm themselves or others. Alcohol abuse often results in automobile crashes, arrests,

accidents and broken families. Very high doses cause respiratory depression and death. Mothers who drink alcohol during pregnancy may give birth to infants with fetal alcohol syndrome. These infants may have irreversible physical abnormalities and mental retardation. Research indicates that children of alcoholic parents are of greater risk of becoming alcoholics. One in eleven drinkers become alcoholics when they lose control over their drinking. This may result in the loss of employment, family and health problems. Continued heavy drinking can cause malnutrition, severe anxiety, hallucination, convulsions, heart disease, brain damage, ulcers and liver damage.

### **School sanctions**

If it is deemed that you have violated the School's Statement of Policy on Substance Abuse, a member of the faculty, administration, staff or any other student may file a complaint against you. You may be suspended or placed on probation and/or be subject to possible prosecution by federal and state drug enforcement agencies. Elyon is committed to both the safety and health of all employees and students. In order to maintain a drug-free environment, the school maintains the following sanctions for all members of the community: warning, suspension, referral to a substance abuse program and termination or expulsion. The College reserves the right to immediately terminate or expel any employee or student who presents a risk to others.

### **State sanctions**

See attached handout of the New York Penal Code involving controlled substances and the following link  
[http://ypdcrime.com/penal.law/article220.htm?zoom\\_highlight=controlled+substances](http://ypdcrime.com/penal.law/article220.htm?zoom_highlight=controlled+substances)

### **Federal sanctions**

First conviction: Up to one year imprisonment and fine of \$1,000 but no more than \$100,000 or both.

After one prior drug conviction: At least 15 days in prison, not to exceed two years, and fine of at least \$5,000 but not more than \$250,000, or both.

Special sentencing provisions for possession of crack cocaine: Mandatory at least five years in prison, not to exceed 20 years and fined up to \$250,000, or both, if: 1. First conviction and the amount of crack possessed exceeds five grams; 2. Second crack conviction and the amount of crack possessed exceeds 3 grams; 3. Third and subsequent crack convictions and the amount of crack possessed exceeds one gram.

Forfeiture of personal and real property used to possess or facilitate possession of a controlled substance if that offense is punishable by more than one year imprisonment. Forfeiture of vehicles, boats, aircraft, or any other conveyance used to transport or conceal a controlled substance.

Civil fines of up to \$10,000.

Denial of federal benefits such as student loans, grants, contracts, and professional and commercial license, up to one year for the first offense, up to five years for second and subsequent offenses.

Ineligible to receive or purchase a firearm.

Revocation of certain federal licenses and benefits, e.g. pilot licenses, public housing tenancy, etc., are vested within the authorities of the individual federal agencies.

Merkaz Bnos has formulated *Drug and Alcohol Use Amnesty Policy* (see *Student Conduct and Rules for the Maintenance of Public Order - Drug and Alcohol Use Amnesty Policy*):

### **Drug and Alcohol Use Amnesty Policy**

Merkaz Bnos encourages students to report incidents of domestic violence, dating violence, stalking, or sexual assault to institution officials. However, administration recognizes that students who have been drinking and/or using drugs (whether such use is voluntary or involuntary) at stressful times, i.e. when being victims of domestic violence, dating violence, stalking, sexual assault, etc. may be hesitant to report such incidents in the circumstances mentioned above for fear of repercussions. Toward that end, and because the health and safety of each and every student is of main concern for Merkaz Bnos, the *Drug and Alcohol Use Amnesty Policy* was adopted.

In order to encourage students to summon medical attention for intoxicated individuals, whether they or others, students who call for medical attention may be eligible for amnesty. In these cases, the students will not be disciplined for violations of the *Drug and Alcohol Policy* of Merkaz Bnos. Similarly, the intoxicated individual for whom medical attention was summoned may be eligible for amnesty and, if it is granted, he/she will not be disciplined for violations of the *Drug and Alcohol Policy* of Merkaz Bnos. Amnesty may be granted by the President of Merkaz Bnos. Such amnesty will be granted to a student only once.

### **Students' Bill of Rights (Section 6443):**

According to New York Education Law Article 129-B, a *Students' Bill of Rights* has been adopted by Merkaz Bnos. All students have the right to:

1. Decide whether to report an incident to the College authorities, or not to report, as well as be free in their choice to make, or not to make a report to local law enforcement and/or state police;
2. Have disclosure of domestic violence, dating violence, stalking, and sexual assault treated seriously;
3. Make a decision about whether or not to disclose a crime or violation and consent 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 College, any student, the accused and/or the respondent, and/or their friends, family, and acquaintances within the jurisdiction of the College;
9. Have access to at least one level of appeal of a determination;
10. Be accompanied by an advisor of choice who may assist and advise a reporting individual, accused or respondent throughout the judicial or conduct process including during all meetings and hearings related to such process;
11. Exercise civil rights and practice of religion without interference by the investigative, criminal justice or judicial or conduct process of the institution.

The Merkaz Bnos *Students' Bill of Rights* is widely distributed. It is included in the *Merkaz Bnos Student Information Handbook*, posted on the school web site, and is available at the Administrative Office and also at the desk of Title IX Coordinator – Mrs. Marina Lebedeva, Director.

#### **Criminal Reporting Policy & Response to Reports (Section 6444):**

If a crime is committed, a survivor has three options: notify law enforcement authorities; receive assistance from Merkaz Bnos in notifying law enforcement authorities; decline to notify such authorities. Students are advised to report any and all occurrences of a crime to Merkaz Bnos's personnel, but a decision to do this is their own.

Merkaz Bnos ensures that reporting individuals are advised of their right to: Consent or refuse to consent for the college to conduct an investigation concerning the reported incident. All consent shall be in written form.

- a. Notify local law enforcement, and/or state police (Merkaz Bnos does not have university police or campus security);
- b. Be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and
- c. Decline to notify such authorities.

Merkaz Bnos 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 Merkaz Bnos officials or law enforcement will not be subject to the Merkaz Bnos 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.

Merkaz Bnos cannot ensure the 24/7 access to the Title IX Coordinator but it will make its best for the expediency of such a contact. Merkaz Bnos will ensure that policies and procedures are simple for reporting individuals to connect to the appropriate person and off-campus resources, such as Sex Crime Hotlines and Rape Centers.

Upon the first instance of disclosure a Title IX Coordinator will provide Reporting individual with information regarding options to proceed, and 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 will explain that she (he) can only offer the reporting individual privacy, and shall inform the reporting individual of other reporting options.

The list of relevant Hotlines and similar organizations follows:

### **Hotlines**

[Safe Horizon](#) – 212-227-3000

Crime Victims/Stalking Hotline: 866-689-4357

Domestic Violence Hotline: 800-621-4673 (English/Spanish)

TDD Assistance: 866-604-5350

Hotline, crisis intervention, domestic violence/immigration (abuse, asylum, VAWA) law projects for low income women, court help, counseling/support groups, referrals, and shelter. Community program in every borough for all victims of violent crime (elder abuse, homicide, sexual assault, domestic violence). Spanish, French, Haitian-Creole.

[National Sexual Assault Hotline](#) – 1-800-656-HOPE (4673) Free, confidential, 24/7.

[New York City Alliance Against Sexual Assault](#) – 212-514-7233

Monday – Friday 9 a.m. – 6 p.m. Referrals and confidential counseling provided.

[New York State Coalition Against Sexual Assault](#) – 1-800-942-6906

New York State Hotline for victims of Sexual Assault and domestic violence. Includes a guide to NYSCASA sponsored rape crisis programs throughout New York State.

### **Report a Crime**

For immediate help, emergencies, or transportation to the hospital, call 911.

[NYC District Attorney's Crime/Special Victims Bureau](#) – 212-335-9373

Manhattan (child sexual abuse) 212.335.4300 | Brooklyn (sex crimes bureau) 718-250-3170 | Brooklyn (counseling) 718-250-3820 | Bronx 718-590-2115 | Queens 718-286-6505 | Staten Island 718-556-7125

The Sex Crimes Unit thoroughly investigates and prosecutes cases involving sexual assaults and other related crimes. The Unit's experienced, specially-trained prosecutors strive to bring the strongest prosecutions for victims of these heinous crimes, while ensuring that those who are falsely accused are not prosecuted and are cleared as early in the process as possible. The Unit endeavors to treat everyone with the respect and consideration appropriate for dealing with these serious and sensitive cases.

[Manhattan DA, Victim Assistance Center](#) – 212-335-9040 100 Centre Street, Rm. 231.

The Victim Assistance Center is a secure, comfortable, supportive environment where victims, witnesses, and their families are introduced to the extensive services available to them through the District Attorney's Office. Victims also receive information about their rights in the criminal justice system and are afforded an opportunity to provide information important to the prosecution of the case.

[New York Police Department Sex Crimes Report Line](#) – 212-267-7273

All female detectives (part of police department), give advice about what can be done, info on law process, and they can send police, initiate investigations, or provide referrals for counseling.

#### **Legal Assistance**

[National Crime Victims Bar Association](#) – 202-467-8753

For assistance pursuing civil justice for crime victims.

[NYS Crime Victims Board](#) – 800-24-8035

Legal help and information provided by the New York State Office of Victim Services.

[LawHelp.org](#)

A website dedicated to helping persons in need find legal help, organizations, resources and information for various circumstances.

[Connect, Inc.](#) – 212-683-0605

Provides legal information and advocacy to survivors of domestic violence.

[Break the Cycle](#) – 800-214-4150

Serves individuals ages 22 and under seeking orders of protection and related Family Court matters.

[New York Legal Assistance Group](#) – 212-613-5000

Through the Women's Clinic for Victim Protection (WCVP), NYLAG provides free legal services in criminal proceedings to victims of domestic violence, sexual assault, stalking, and trafficking.

The WCVP helps crime victims enforce their rights regarding

Detention of the defendant before trial, pleas, and sentencing

Sentencing

Challenging invasive pretrial discovery

Making victim impact statements before sentencing

In addition to providing direct legal representation, the WCVF offers training to prosecutors, civil attorneys, and victim advocates on using the criminal justice system to support crime victims.

The Title IX Coordinator has the necessary knowledge and is appropriately trained for the matters concerning preserving evidence, sexual assault forensic examinations and the differences between the conduct and criminal justice; available resources online are at her (his) disposal. Director of Operations Mrs. Olga Martinoff is also designated to receive a report, for Responsible Employee for Title IX compliance purposes. Merkaz Bnos provides the designated persons with the necessary training on the matter.

Reporting individuals will be able to disclose the incident in privacy to Merkaz Bnos representatives, who can assist in obtaining services for reporting individuals;

Reporting individuals will be able to disclose the incident confidentially to and obtain services from the state or local government organizations and relevant help centers;

Reporting individuals will be able to file a report of sexual assault, domestic violence, dating violence, and/or stalking, and the right to consult the Title IX Coordinator and other appropriate Merkaz Bnos representatives for information and assistance. Reports shall be investigated in accordance with Merkaz Bnos policy; a reporting individual's identity will remain private at all times;

Reporting individuals will be able to disclose the incident to the President of Merkaz Bnos or request that a confidential outside helper or private Merkaz Bnos employee assist in reporting the incident to the President, if the accused is an employee of Merkaz Bnos;

Reporting individuals will be able to receive assistance in getting access to additional resources to students in initiating these proceedings, i.e. information sheets, related literature from Merkaz Bnos Library and links to appropriate resources.

Reporting individuals will be able to withdraw a complaint or involvement from the institution process at any time.

Merkaz Bnos has ensured that at the first instance of disclosure by a reporting individual to an Merkaz Bnos representative, the following information will be presented to the reporting individual: **“You have the right to make a report to university police or campus security, (if applicable) 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 stance and resources from your institution.”**

The copies of this statement are available to reporting individuals at the desk of both Title IX Coordinator and Merkaz Bnos Administrative Secretary.

Merkaz Bnos will ensure that the reporting individuals are provided with information about resources, including intervention, mental health counseling, and medical services, available at no cost or for a fee, as well as make efforts to provide information on sexually transmitted infections, sexual assault forensic examinations, and resources available through the New York state office of Victim Services.

(See, for example, *Student Conduct and Rules for the Maintenance of Public Order - Sexual Assault*).

### **Sexual Assault, Domestic, Dating Violence and Stalking**

The School treats allegations of sexual assault, domestic and dating violence, and stalking extremely seriously and has a system in place to assist survivors in obtaining medical treatment, counseling and advocacy services, and legal assistance. School administration is committed to treating survivors with care, compassion, and respect. Additional information on the nature of sexual assault, domestic and dating violence and stalking prevention can be found in the Student's Handbook, in Appendix 1 of the current document, and in outside resources by following the links on the Merkaz Bnos web-page.

### **WEB SITE RESOURCES**

Department of Justice Violence against Women Office:

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

Additional guidance for crime victims outside of Merkaz Bnos Resources may be found at the Office of Victim Services website: <https://ovs.ny.gov/>

### **Protections and Accommodations for the Reporting individuals; Interim Measures for the Accused**

Merkaz Bnos will provide the reporting individuals with the following protections and accommodations:

- a. When the accused or respondent is a student, Merkaz Bnos will issue a “no contact order”. Upon the issuance of such order continued intentional contact with the reporting individual would be a violation of institution policy subject to additional conduct charges; if the accused or respondent and a reporting individual observe each other in a public place, it shall be the responsibility of the accused or respondent to leave the area immediately and without directly contacting the reporting individual.

Both the accused or respondent and the reporting individual will be provided with a prompt review of the need for and terms of a no contact order, after submitting evidence in support of his or her request. The responsibility to stay away falls upon the person who

was served the “no contact order”, not the protected individual. If the person under a “no contact order” and a reporting individual meet in a public space, they should remove themselves in a reasonable time and manner. Merkaz Bnos will use fair judgment to decide whether the accused may or may not use the same public space as the reporting individual.

b. If need arises, Merkaz Bnos will take necessary steps to assist the reporting individual in obtaining an order of protection or, if outside of New York state, an equivalent protective or restraining order. Merkaz Bnos will treat the process and award of an outof-state court document equivalent to a New York State Order of Protection.

c. When a copy of the order of protection or equivalent is received by Merkaz Bnos it will assist the individual to meet or speak with an appropriate individual 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 or persons. Since Merkaz Bnos does not have officials acting in such a capacity, it will help a reporting individual to meet persons from outside organizations, including a local resource or a neighboring institution where such a resource is available. Local resources may include law enforcement, legal aid organizations, rape crisis centers, and domestic violence prevention organizations. A list and/or map of state and local resources in New York State can be found by visiting <http://www.suny.edu/violence-response/> and clicking on “Off Campus Resources” or “View NYS Resources”.

d. In order to explain the consequences for violating these orders, including but not limited to arrest, additional conduct charges, and interim suspension, Merkaz Bnos may contact available law enforcement to assist clarifying specific consequences. Either a person served by these orders or protected person (s) may request assistance and an explanation.

e. If an “order of protection” is violated, Merkaz Bnos will call on and assist local law enforcement in effecting an arrest for violating such an order; Merkaz Bnos has designated Title IX coordinator, Mrs. Marina Lebedeva (or her designee) as an official who can assist a student in understanding an Order of Protection, and a clear method for contacting that office. To comply with the Clery Act requirement of evenhandedness, such explanations are available both to students who are protected by Orders of Protection and to those who are subject to Orders of Protection.

f. When the accused or respondent is a student determined to present a continuing threat to the health and safety of the community, Merkaz Bnos will subject the accused or respondent to interim suspension pending the outcome of a judicial or conduct process consistent with the institution’s policies and procedures. Both the accused or respondent and the reporting individual shall, upon request and consistent with the institution’s

policies and procedures, be afforded a prompt review, reasonable under the circumstances, of the need for and terms of an interim suspension;

Necessary efforts will be made to ensure that the interim suspensions are reasonable and tailored 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.

g. When the accused is not a student but is a member of the institution's community and presents a continuing threat to the health and safety of the community, Merkaz Bnos will subject the accused to interim measures in accordance with applicable collective bargaining agreements, employee handbooks, and rules and policies of the institution. They can be served a persona non grata letter notifying an individual that they are not allowed on Merkaz Bnos property and entering property may subject them to arrest or trespassing charges.

h. Both the accused or respondent and the reporting individual will obtain from Merkaz Bnos reasonable and available interim measures and accommodations that effect a change in academic schedule, employment, transportation or other applicable arrangements in order to help ensure safety, prevent retaliation and avoid an ongoing hostile environment. They will be afforded a prompt review of the need for and terms of any such interim measure and accommodation that directly affects him or her, and shall be allowed to submit evidence in support of his or her request.

**Note: Clery Act, Title IX, and other applicable laws require equal access to appeals and requires that the institution provide the parties with simultaneous notice about the outcome.**

Merkaz Bnos will ensure that every student be afforded the following rights:

- a. The right to request that student conduct charges be filed against the accused. Merkaz Bnos reserves the right to decide whether to initiate charges or not to initiate them when evidence does or does not merit doing so.
- b. 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 includes, at a minimum: (I) notice to a respondent describing the date, time, location and factual allegations concerning the violation, a reference to the specific code of conduct provisions alleged to have been violated, and possible sanctions; (II) an opportunity to offer evidence during an investigation, and to present evidence and testimony at a hearing, where appropriate, and have access to a full and fair record of any such hearing, which shall be preserved and maintained for at least five years from such a hearing and may include a transcript, recording or other appropriate record; and (III) 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. In order to effectuate an appeal, a respondent and reporting individual in such cases shall receive written notice of the findings of fact, the decision and the sanction, if any, as well as the rationale for the decision and sanction. In such cases, any rights provided to a reporting individual must be similarly provided to a respondent and any rights provided to a respondent must be similarly provided to a reporting individual. Each communication by Merkaz Bnos on the ongoing investigation will be provided to the reporting individual and respondent simultaneously, and may be initially curtailed for policy reasons.
- c. Throughout proceedings involving such an accusation of sexual assault, domestic violence, dating violence, stalking, or sexual activity, the right for the respondent, accused, and reporting individual to be accompanied by an advisor of choice for advisement and/or assistance.

Merkaz Bnos will ensure that each individual will, in reasonable time, get a prompt response to any complaint and to have the 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 pursuant to the provisions of this article and the institution’s policies and procedures, and other issues including, but not limited to domestic violence, dating violence, stalking or sexual assault.

Merkaz Bnos will make efforts to ensure that such an investigation and process is fair, impartial and provide a meaningful opportunity to be heard, and that it is not conducted by individuals with a conflict of interest.

Merkaz Bnos maintains a responsibility to investigate and take action in cases of sexual assault, domestic violence, dating violence, and stalking. Its conduct process may run concurrently with a criminal justice investigation and proceeding. The Clery Act requires that Merkaz Bnos offer reporting individuals the opportunity to report to the college, law enforcement, or not at all. The school's sexual assault policy/procedures and criminal justice process are separate and distinct processes and one does not overcome the other. In cases that impact Title IX, the Merkaz Bnos Title IX Coordinator will be involved in the decision of whether to delay the institution process. It is the institution’s policy that any incident that may be defined as a reportable crime as delineated in Appendix I shall be investigated. If it is determined that it should be investigated, then the reporting individual is so notified in writing.

Merkaz Bnos will provide both the respondents and reporting individuals with reasonable access to evidence in the case file that may be used in a hearing or investigation.

Merkaz Bnos admits the right of individuals to exclude their own prior sexual history with persons other than the other party in the judicial or conduct process or their own mental health diagnosis and/or treatment from admittance in a disciplinary institution. Past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the disciplinary stage that determines sanction.

Merkaz Bnos will ensure that individuals in the process will receive written or electronic notice, provided in advance, 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.

Merkaz Bnos admits the right of an individual to make an impact statement during the point of the proceeding where the decision maker is deliberating on appropriate sanctions.

Merkaz Bnos admits the right of individuals to simultaneously receive (among the parties) written or electronic notification of the outcome of a judicial or conduct process, including the sanction or sanctions 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.

Merkaz Bnos admits the right of an individual to choose whether to disclose or discuss the outcome of a conduct or judicial process. At the same time, the individual should demonstrate decency in sharing such information so that his/her openness in sharing such information does not constitute a violation of the Code of Conduct and thus bring forth charges of willful retaliation.

Merkaz Bnos admits the right of an individual (s) 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.

### **Transcript Notations**

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 established in 20 U.S.C. 1092(f)(1)(F)(i)(I)-(VIII), Merkaz Bnos 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 institution while such conduct charges are pending, and declines to complete the disciplinary process, institutions shall make a notation on the transcript of such students that they “withdrew with conduct charges pending.”

Merkaz Bnos has published a policy on transcript notations and appeals seeking removal of a transcript notation for a suspension, provided that such notation shall not be removed prior to one year after conclusion of the suspension, while notations for expulsion shall not be removed.

*See Student Conduct and Rules for the Maintenance of Public Order- Transcript Notations*

### **Transcript Notations**

Students suspended or expelled from Merkaz Bnos lose the right for an academic grievance. Suspended or expelled students are responsible for any financial obligation which may have been incurred as a result of the disciplinary sanction.

As required by New York State Education Law, Article 129-B, crimes of violence, including, but not limited to sexual violence, will be notated on the transcripts of students found responsible. The resulting sanction of such conduct includes either suspension or expulsion. The notation on the transcript will read “Violation of Code of Conduct- NY 129-B.”

For the respondent who withdraws from the institution while such conduct charges are pending, and declines to complete the disciplinary process, institutions shall make a notation on the transcript of such students that they “Withdrew with Code of Conduct Charges Pending- NY 129-B.”

Crimes that meet the reporting requirements pursuant to this law include:

- Criminal Homicide—Manslaughter by Negligence;
- Criminal Homicide—Murder and Non-negligent Manslaughter;
- Rape;
- Fondling;
- Incest;
- Statutory Rape;
- Robbery;
- Aggravated Assault;
- Burglary;
- Motor Vehicle Theft;
- Arson;

Should any student with such a notation on their transcript like to appeal the notation, they may do so in writing to the President of Merkaz Bnos.

Upon an appeal being received, the President of Merkaz Bnos will bring the request forward to the appropriate institutional personnel.

A notation for expulsion will not be removed unless the student is found not guilty of committing the crimes listed above.

If a finding of responsibility is vacated for any reason, any such transcript notation shall be removed.

Merkaz Bnos will place notations on transcripts of students when two factors are met:

- The student is found responsible, after a process (or takes responsibility) for a code of conduct violation that is equivalent to the definitions for Clery Act Part I Primary Crimes; and
- The student is expelled, suspended, and/or withdraws with conduct charges pending.

In compliance with *Education Law Article 129-B*, as added by Chapter 76 of the Laws of 2015 Merkaz Bnos has published a list of Reportable Crimes

See *Student Conduct and Rules for the Maintenance of Public Order - Appendix 1 Definitions Of Reportable Crimes:*

### *Appendix 1*

## **DEFINITIONS OF REPORTABLE CRIMES**

**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 a 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 that could and probably would result in serious personal injury if the crime were successfully completed.)

**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 or another, etc.

**Burglary:** The unlawful entry of a structure to commit a felony or 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 acts.

**Dating Violence:** Violence committed by a person - Who is or has been in a social relationship of a romantic or intimate nature with the victim; and - Where the existence of such a relationship shall be determined based on a consideration of the following factors; the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship.

**Domestic Violence:** A felony or misdemeanor crime of violence committed by

- A current or former spouse or intimate partner of the victim,
- A person with whom the victim shares a child in common,
- A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,

- A person similarly situated to a spouse of the victim under the domestic or family violence laws of New York State
- Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of New York State.

**Drug Abuse Violations:** Violations of state and local laws relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The relevant substances include opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics (Demerol, methadone); and dangerous nonnarcotic drugs (barbiturates, Benzedrine).

**Liquor Law Violations:** The violation of laws or ordinances prohibiting the manufacture, sale, transporting, furnishing, possessing of intoxicating liquor; maintaining unlawful drinking places; bootlegging; operating a still; furnishing liquor to a minor or intemperate person; using a vehicle for illegal transportation of liquor; drinking on a train or public conveyance; and all attempts to commit any of the aforementioned activities.

**Motor Vehicle Theft:** the theft or attempted theft of a motor vehicle. (Classify as motor vehicle theft all cases where automobiles are taken by persons not having lawful access even though the vehicles are later abandoned, including joyriding.)

**Murder and Non-negligent Manslaughter:** The willful (non-negligent) killing of one human being by another.

**Negligent Manslaughter:** The killing of another person through gross negligence.

**Robbery:** The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

**Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to

- Fear for his or her safety or the safety of others; or
- Suffer substantial emotional distress.

**Hate Crimes:** A hate crime is a criminal offense committed against a person or property which is motivated, in whole or in part, by the offenders' bias. "Bias" is a preformed negative opinion or attitude toward a group of person based on their race, gender, religion, disability, sexual orientation, or ethnicity/nation origin.

These include all the crimes listed above and the following:

**Larceny-Theft:** The unlawful, carrying, leading, or riding away of property from the possession or constructive possession of another.

**Simple Assault:** An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, sever laceration, or loss of consciousness.

**Intimidation:** to unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

**Destruction/Damage/Vandalism of property:** To willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

### **List of Help-Centers for Victims of all Types of Violence:**

Since Merkaz Bnos lacks appropriate on-campus services on counseling, health, mental health, victim advocacy, and legal assistance, which may also include services for the respondent, it recommends that the participants of such traumatic events contact existing community-based organizations, including rape-crisis centers, domestic violence shelters, and assistance organizations, local hospitals, etc.

NYS Domestic and Sexual Violence Hotline

1-800-942-6906

English & Español, Multi-language Accessibility

National Relay Service for Deaf or Hard of Hearing: 711

In NYC: 1-800-621-HOPE (4673) or dial 311 TTY: 1-866-604-5350

[Center Against Domestic Violence](#) (718) 439-1000 - OCFS Licensed and Approved.

[Edwin Gould Services for Children and Families](#) – STEPS to End Family Violence (877)-STEPS-94 - OCFS Licensed and Approved.

[HELP USA](#) (718) 922-7980 - OCFS Licensed and Approved.

[New Destiny Housing](#) (646) 472-0262 ext. 11

[New Vista for Families, Inc.](#) (718) 984-6842 - OCFS Licensed and Approved.

[Ohel Children's Home & Family Services](#) (800) 603- OHEL (6435) - OCFS Licensed and Approved.

[Safe Horizon](#) (800) 621-4673 - OCFS Licensed and Approved.

[Services for the UnderServed \(S:US\)- formerly Palladia, Inc.](#) – (800) 621-HOPE (4673) - OCFS Licensed and Approved.

[Urban Justice Center - Domestic Violence Project](#) (718) 875-5062 - OCFS Licensed and Approved.

[Urban Resource Institute](#) (888) 279-2211 or (888) 252-2890 - OCFS Licensed and Approved.

[Volunteers of America, Greater New York](#) – to contact, use the NYC Domestic Violence Hotline (800) 621-HOPE (4673) - OCFS Licensed and Approved.

**Maimonides Hospital Case Management & Social Services** has NYS Certified Social Workers to help on the following issues: Supportive Counseling; Domestic Violence; Sexual Assault; Child Protection (Abuse, Neglect); Adult Protective Services/Elder Abuse.

Maimonides Medical Center, 4802 Tenth Avenue, Brooklyn, NY 11219

Telephone: 718-283-8320

Merkaz Bnos, to the extent practicable, will provide assistance in contacting these organizations. Merkaz Bnos recognizes that victims of sex crimes should have access to a sexual assault forensic examination and recommends that upon Merkaz Bnos referral victims contact such local health care facilities as listed above.

### **Campus Climate Assessments (Section 6445):**

Merkaz Bnos will conduct, no less than every other year, a campus climate assessment to ascertain general awareness and knowledge of the provisions of this article, including student experience with and knowledge of reporting and college adjudicatory processes.

The assessment includes questions covering the following:

- a. the Title IX Coordinator's role;
- b. campus policies and procedures addressing sexual assault;
- c. how and where to report domestic violence, dating violence, stalking or sexual assault as a victim, survivor or witness;
- d. the availability of resources on and off campus, such as counseling, health and academic assistance;
- e. the prevalence of victimization and perpetration of domestic violence, dating violence, stalking, or sexual assault on and off campus during a set time period;
- f. bystander attitudes and behavior;
- g. whether reporting individuals disclosed to the institution and/or law enforcement, experiences with reporting and institution processes, and reasons why they did or did not report;
- h. the general awareness of the difference, if any, between the institution's policies and the penal law; and
- i. general awareness of the definition of affirmative consent.

Merkaz Bnos will take steps to ensure that answers to such assessments remain anonymous and that no individual is identified. Merkaz Bnos will publish results of the surveys on its website, ensuring that no personally identifiable information or information which can reasonably lead a reader to identify an individual is shared.

Information discovered or produced as a result of a survey will not be subject to discovery or admitted into evidence in any federal or state court proceeding or considered for other purposes in any action for damages brought by a private party against Merkaz Bnos, unless spelled otherwise by the court, as information deemed to be material to the underlying claim or defense.

**Options for Confidential Disclosure (Section 6446):**

1. Merkaz Bnos will ensure that reporting individuals have the following:
  - a. Information regarding privileged and confidential resources they may contact regarding domestic violence, dating violence, stalking or sexual assault, where privileged and confidential are defined under *Necessary Definitions* section of the current document;
  - b. Information about counselors and advocates they may contact regarding domestic violence, dating violence, stalking, or sexual assault can be found in the current document (“Enough is Enough”) under the heading: *Response to Reports (Section 6444) -The list of relevant Hotlines and similar organizations.*
  - c. Even Merkaz Bnos 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 for the Title IX Coordinator to investigate and/or seek a resolution;
  - d. Merkaz Bnos will weigh a request for confidentiality and respond to such a request appropriately. If a reporting individual discloses an incident to an institution employee who is responsible for responding to or reporting domestic violence, dating violence, stalking, or sexual assault but wishes to maintain confidentiality or does not consent to the institution’s request to initiate an investigation, the Title IX Coordinator will weigh the request against the institution’s obligation to provide a safe, non-discriminatory environment for all members of its community. The institution will assist with academic, transportation, employment, and other reasonable and available accommodations regardless of reporting choices; Students’ rights to interim measures and accommodations will apply regardless of whether they decide to formally report and/or to participate in the investigation or conduct process;

e. If a reporting individual discloses information about an incident through a public awareness event such as candlelight vigils, protests, or other advocacy or public events, Merkaz Bnos is not obligated to begin an investigation based on such information. Merkaz Bnos may use the information provided at such an event to inform its efforts for additional education and prevention efforts;

f. Merkaz Bnos recommends that the reporting individuals contact the organizations that allow for the anonymously disclosure of information, and that can be found in proximity to Merkaz Bnos campus location (listed in the current document, Appendix II);

g. In its annual security report Merkaz Bnos will include reports of certain crimes occurring in geographic locations in proximity to Merkaz Bnos campus pursuant to the Clery Act, 20 U.S.C. 1092(f). Merkaz Bnos will 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. This information will be shared also with students' parents when:

- i. there is a health or safety emergency, or
- ii. when the student is a dependent on either parent's prior year federal income tax return;
- iii. generally, Merkaz Bnos 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.

2. Merkaz Bnos may take proactive steps, such as training or awareness efforts, to combat domestic violence, dating violence, stalking or sexual assault in a general way that does not identify those who disclose or the information disclosed.

3. If Merkaz Bnos determines that an investigation is required, it will notify the reporting individuals and take immediate action as necessary to protect and assist them.

4. Merkaz Bnos will seek consent from reporting individuals prior to conducting an investigation. Declining to consent to an investigation shall be honored unless the Merkaz Bnos determines in good faith that failure to investigate does not adequately mitigate a potential risk of harm to the reporting individual or other members of the community. Please, note, that honoring such a request may limit Elyon College's ability to meaningfully investigate and pursue conduct action against an accused individual. In determining whether to honor such a request or not, the following will be taken into consideration:

- a. Whether the accused has a history of violent behavior or is a repeat offender;
- b. Whether the incident represents escalation in unlawful conduct on behalf of the accused from previously noted behavior;
- c. The increased risk that the accused will commit additional acts of violence;

- d. Whether the accused used a weapon or force;
- e. Whether the reporting individual is a minor; and
- f. Whether Merkaz Bnos possesses other means to obtain evidence such as security footage, and whether available information reveals a pattern of perpetration at a given location or by a particular group.

**Student Onboarding and Ongoing Education (Section 6447):**

1. Merkaz Bnos adopted a student onboarding and ongoing education campaign to educate members of the institution's community about domestic violence, dating violence, stalking, and sexual assault, in compliance with applicable federal laws, including the Clery Act as amended by the Violence Against Women Act reauthorization of 2013, 20 U.S.C. 1092(f).
2. In doing so Merkaz Bnos used good faith to develop programs that best meet the needs of students and educate them about these important issues.
3. Merkaz Bnos works with statewide and local organizations to develop and offer useful training programs. Students sometime assist faculty, staff and community members in developing educational courses.
4. During the course of their onboarding, all new first-year and transfer students receive training on the following topics:
  - a. Merkaz Bnos policy on prohibition of sexual and interpersonal violence, description of resources to victims of such violence and appropriate administrative and conduct actions;
  - b. The definitions of sexual assault, domestic violence, dating violence, stalking, confidentiality, privacy, and consent are covered; these and other related terms are extensively covered in *Student Conduct and Rules for the Maintenance of Public Order* Glossary of Terms and other parts of the document;
  - c. Application of related policies equally to all students regardless of sexual orientation, gender identity, or gender expression;
  - d. The role of the Title IX Coordinator in addressing domestic violence, dating violence, stalking, and sexual assault prevention and response;
  - e. Awareness of violence, its impact on victims and survivors and their friends and family, and its long-term impact;

f. Bystander intervention and the importance of taking action to prevent violence when one can safely do so;

g. Merkaz Bnos makes sure that the risk of such crimes is properly assessed. The steps that potential victims, perpetrators, and bystanders can take to avoid violence are explained. Students are provided with information about the dangers of drug and alcohol use, underage drinking and binge drinking, involuntary consumption of incapacitating drugs and the danger of mislabeled drugs and alcohol.

See *Student Conduct and Rules for the Maintenance of Public Order - Drug and Alcohol Policy*

h. Consequences and sanctions for individuals who commit these crimes and code of conduct violations are described in available documents and during the training sessions.

5. Merkaz Bnos educates all its students about violence prevention and shares information on domestic violence, dating violence, stalking and sexual assault prevention with parents of enrolling students.

6. Merkaz Bnos offers to all students education and training in domestic violence, dating violence, stalking and sexual assault prevention in a framework of a campaign that complies with the Violence Against Women Act, 20 U.S.C. 1092(f) and is culturally sensitive to the student's religious beliefs.

7. Merkaz Bnos regularly assesses programs and policies on onboarding and ongoing education in order to determine its effectiveness and relevance for students.

**Additional Hotlines and Resources**

New York City Alliance against Sexual Assault  
[www.svfreenc.org](http://www.svfreenc.org)

Rape, Abuse, and Incest National Network (RAINN)  
Toll-free Hotline: 1-800-656-HOPE  
[www.rainn.org](http://www.rainn.org)

Albany County Rape Crisis Center  
112 State Street (Albany County Building)- room 1100  
Albany, NY 12207  
Phone: (518) 447-5500  
Admin: (518) 447-7100  
24 hour hotline: 447-7716  
Email: [acrccdir@crisny.org](mailto:acrccdir@crisny.org)

New York Asian Women's Center  
39 Bowery, PMB 375  
New York, NY 10002 15  
Phone: (212) 732-5230  
Fax: (212) 587-5731  
Email: [contact@nyawc.org](mailto:contact@nyawc.org)  
Hotline: 1-888-888-7702

National Sexual Violence Resource Center  
123 North Enola Drive Enola, PA 17025  
Phone: (717) 909-0710  
Toll-free: 1-877-739-3895

The Brooklyn District Attorney's Office  
Domestic Violence Bureau (718) 250-3300  
Teen Dating Violence (718) 250-3321  
Victim Services (718) 250-3820

NYS Domestic and Sexual Violence Hotline  
**1-800-942-6906**  
English & Español, Multi-language Accessibility  
National Relay Service for Deaf or Hard of Hearing: 711  
In NYC: 1-800-621-HOPE (4673) or dial 311 TTY: 1-866-604-5350

CAMBA Violence Prevention and Intervention Services

1720 Church Avenue

Brooklyn, NY 11226 (718) 287-2600 [info@camba.org](mailto:info@camba.org)

The Center for Anti-Violence Education (CAE)

(Comprehensive programs for individuals and organizations)

Brooklyn: 327 Seventh Street, #2 (718) 788-1775

<http://www.caeny.org>

Safe Slope

(Services and Resources to empower and protect the communities in the aftermath of multiple assaults and attempted assaults) (347)709-8852 [safeslope@gmail.com](mailto:safeslope@gmail.com)

<http://safeslope.org/>

Shalom Task Force

Hotline: Local: (718) 337-3700

Toll free: (888) 883-2323

Office: (212) 7742-1478

Ohel Mental Health Adult Services

(800)603-ohel

South Brooklyn Legal Services

(Domestic Violence, Civil Rights, Divorce and Family)

(718) 237-5500

105 Court Street

Brooklyn, NY 11201

Brooklyn Legal Service Corporation "A", East Brooklyn Office

(Domestic Violence, Civil Rights, Elder and Family)

(718) 487-2300

256 Broadway

Brooklyn, NY 11211

Dwa Fanm

(Domestic Violence)

(718) 230-4027

P O Box 23505

Brooklyn, NY 11202

## **Hospitals in New York with Sexual Assault Forensic Examiner (SAFE) Programs**

### Woodhull Medical and Mental Health Center

760 Broadway

Brooklyn, NY 11206 (718) 963-8000

### Coney Island Hospital

2601 Ocean Parkway

Brooklyn, NY 11235

[\(718\) 616-3000](tel:7186163000)

### Kings County Hospital Center

451 Clarkson Avenue

Brooklyn, NY 11203

[\(718\) 245-3131](tel:7182453131)

## **Other Hospitals, Legal Centers and Rape Shelters**

### Maimonides Medical Center

4802 Tenth Avenue

Brooklyn, NY 11219

Phone: (718) 283-6000

Distance: 1.52 miles

### New York Community Hospital of Brooklyn

2525 Kings Highway

Brooklyn, NY 11229

Phone: (718) 692-5300

Distance: 2.00 miles

### Mount Sinai Beth Israel Brooklyn

3201 Kings Highway

Brooklyn, NY 11234

Phone: (718) 951-3000

Distance: 2.26 miles

### Coney Island Hospital

2601 Ocean Parkway

Brooklyn, NY 11235

Phone: (718) 616-3000

Distance: 2.58 miles

SUNY University Hospital of Brooklyn

445 Lenox Road

Brooklyn, NY 11203

Phone: (718) 270-2401

Distance: 3.29 miles

Kingsbrook Jewish Medical Center

585 Schenectady Avenue

Brooklyn, NY 11203

Phone: (718) 604-5000

Distance: 3.90 miles

Safe Homes Project

506 Sixth Street

Brooklyn, NY 11215

Phone: (718) 780-3101

Distance: 3.40 miles

Brooklyn Defender Services

177 Livingston Street, 5th floor

Brooklyn, NY 11201

Phone: (718) 254-0700

Distance: 4.91 miles

Interfaith Medical Center

1545 Atlantic Avenue

Brooklyn, NY 11213

Phone: (718) 935-7000

Distance: 4.81 miles

Kings County Hospital Center

Crisis Center Room - S1N30

451 Clarkson Avenue,

Brooklyn, NY 11203

Phone: (718) 245-3131

Distance: 3.55 miles

Brooklyn Hospital Path Center -

Downtown Campus

121 Dekalb Avenue

Brooklyn, NY 11201

Phone: (718) 250-8000

Distance: 4.95 miles

## A Plain Language Explanation of Distinctions Between the New York State Penal Law and the College Disciplinary Processes

Revised: April 9, 2018

	<b>Criminal Justice System</b>	<b>College/University Disciplinary System</b>
<b>Goals.</b>	Public safety, deterrence, and punishment.	Education; safety; safe and supportive campus environment.
<b>Governing Law.</b>	New York State Penal Code; New York State Rules of Criminal Procedure (or another state's rules if the crime took place there), Federal Criminal Law, and Rules of Evidence.	Title IX; The Clery Act as amended by the Violence Against Women Act; NYS Education Law sections 129A and 129-B. Merkaz Bnos is governed by the rules based on these laws and regulations; for specific topics consult the current document ( <i>Enough is Enough</i> ), and other Merkaz Bnos guides and publications.
<b>How to report and whether there must be action once a report is made.</b>	Crimes involving sexual violence may be reported to campus police (if the campus has police officers), the local police agency, or to the New York State Police. Certain crimes may also be reported to federal law enforcement agents. Once a report is made, the decision whether to investigate is made by the police/law enforcement agency, often in consultation with a District Attorney or other prosecuting agency. An investigation may be conducted without the consent or participation of a reporting individual. The ultimate decision of whether to initiate a criminal prosecution is initially made by a prosecutor. In cases involving felony charges, the final charging decision is made by a Grand Jury.	Victims may disclose sexual violence to designated Merkaz Bnos employees (Director Mrs. Marina Lebedeva; Director of Administrative Operations Mrs. Olga Martinoff who will try to ensure privacy to the extent consistent with the Merkaz Bnos's obligation to provide a safe educational environment. Disclosures made to a confidential resource will not trigger an investigation. When a report is made to the Title IX Coordinator, TIXC (currently, Mrs. Marina Lebedeva,) or another Non-Confidential resource, the TIXC will determine whether an investigation is necessary by weighing a request for confidentiality by the reporting individual against the continuing safety of that person and the safety and best interests of the campus community.
<b>Who investigates?</b>	Police or other law enforcement officials.	President of Merkaz Bnos; Director of Administrative Operations.
<b>Procedures</b>	See Governing Law. Procedures established by police departments, prosecutors' offices, etc.	Merkaz Bnos policies, formulated in the <i>Enough is Enough</i> document, in <i>Campus Security and Crime Prevention Policy</i> and outlined in the <i>Student Information Handbook</i> . They generally incorporate requirements of Governing Law.

<b>Standard of Evidence.</b>	Crimes must be proven “Beyond a Reasonable Doubt”	A violation of disciplinary rules must be found by a “Preponderance of the Evidence” (more likely than not)
<b>Confidentiality.</b>	Law enforcement agencies offer some confidential assistance, but a criminal charge and trial must be public.	Merkaz Bnos offer confidential resources, but a disciplinary proceeding requires that relevant information be shared with those involved.
<b>Privacy.</b>	Criminal trials must be public.	Disciplinary proceedings are kept as private as possible, but information must be shared with certain individuals within the college, the parties, and pursuant to law.
<b>Who are the parties?</b>	The prosecution and defendant. The victim/survivor is <u>not</u> a party, but often the critical witness for the prosecution.	For Merkaz Bnos the parties are the reporting individual and accused/respondent.
<b>Participation in the process.</b>	In limited circumstances, a criminal prosecution can proceed without the participation or cooperation of the reporting individual, but without a reporting individual’s participation, it is generally more difficult to prove a crime beyond a reasonable doubt.	Merkaz Bnos does not require reporting students to participate in the school process. However, Merkaz Bnos will be limited in its ability to respond if a reporting individual does not participate.
<b>Who initiates the proceedings?</b>	A prosecutor, acting on behalf of the state (or the United States in federal cases).	Merkaz Bnos initiates proceedings, and encourages the reporting individual to play an active role in those proceedings.
<b>Testimony.</b>	In a court, testimony is generally public. Other parties are, through counsel, entitled to cross-examine witnesses.	Merkaz Bnos permits students to testify without having other parties in the room and to ask cross-examination questions only through the disciplinary panel, investigator, or representative of the reporting individual and/or respondent.
<b>Role of attorneys.</b>	Both the state and the defendant are represented by counsel; counsel may question witnesses.	Merkaz Bnos limits the attorneys’ roles to quietly speaking with their clients or passing notes.
<b>Mental Health and Sexual History.</b>	In New York, a reporting individual’s prior sexual and mental health history is generally, but not always, inadmissible in a criminal case. There are limited circumstances under which directly relevant evidence of that kind may be admitted.	Generally not admissible, but subject to quite limited exceptions. Education Law 129-b permits parties to exclude information about their prior sexual history with persons other than the other party and also to exclude evidence of their own mental health history in the fact finding phase of the disciplinary process.

<p><b>Possible Results.</b></p>	<p>If a prosecution takes place, the defendant may</p> <ul style="list-style-type: none"> <li>• plead guilty or “no contest”</li> <li>• have the case dismissed by the judge (on legal grounds)</li> <li>• be found “guilty” or “not guilty” by a judge or jury</li> </ul>	<p>In cases that do not involve sexual assault, Merkaz Bnos permits mediation or similar procedures if parties agree. If there is a formal proceeding, the respondent may be found “responsible” or “not responsible” for violations of the Merkaz Bnos rules. Respondents may also accept responsibility before a finding by an adjudicator.</p>
<p><b>Sanctions.</b></p>	<p>An individual found guilty may be fined, imprisoned, or both. In some courts, alternative sanctions are sometimes used.</p>	<p>An individual found responsible for violating Merkaz Bnos policy may be given a range of sanctions (depending on the severity of the conduct and other factors, such as prior judicial history), ranging from a warning to suspension or expulsion from the school.</p>