



TITLE IX POLICY ON SEXUAL HARASSMENT, SEX DISCRIMINATION AND SEXUAL MISCONDUCT

I. INTRODUCTION

Mount St. Mary's University is a Catholic institution committed to upholding standards that promote respect and human dignity. Members of the university community have the right to be free from all forms of sexual harassment, sex discrimination and sexual misconduct, examples of which can include acts of sexual assault, domestic violence, dating violence, and stalking. All members of the campus community, guests and visitors are expected to conduct themselves in a manner that does not infringe upon these rights. This policy specifies the rights and duties of employees, including faculty members, and students in matters involving sexual harassment, discrimination, and misconduct. For purposes of this policy, references to "employees" includes faculty members and students employed by the university.

II. TITLE IX COORDINATOR

The university's Title IX Coordinator oversees compliance and implementation of all aspects of the *Sexual Harassment, Sex Discrimination and Sexual Misconduct* policy. The Coordinator report directly to the President.

Questions about this policy should be directed to the Title IX Coordinator or Deputy Title IX Coordinators:

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III. JURISDICTION

This policy applies to behaviors that take place on the campus or at Mount St. Mary's University sponsored events and also applies to actions that occur off-campus or online that affect a substantial Mount St. Mary's University interest. This policy applies to each student, faculty member, and employee of Mount St. Mary's University.

IV. CONDUCT PROHIBITED BY THIS POLICY

The university prohibits sexual harassment, sex discrimination, and sexual misconduct, including non-consensual sexual contact, non-consensual sexual intercourse, sexual exploitation, intimate partner violence, and stalking. The university also prohibits retaliation. As used throughout this policy "Prohibited Conduct" means any or all of the conduct prohibited by this policy.

V. DEFINITIONS

For purposes of this Policy, the following definitions will apply:

Reporting Party

A person who has been subjected to conduct that may constitute conduct prohibited by this policy.

Responding Party

A person who is alleged to have engaged in conduct prohibited by this policy.

Third-party Reporter

A person who reports to the university that another person has been subjected to conduct that may constitute conduct prohibited by this policy.

Personal Supporter

A person chosen by the Reporting Party or Responding Party to support and accompany him or her during the investigation and disciplinary procedures under this policy. The role of a Personal Supporter is further defined in this policy.

Responsible Person

Responsible persons include members of the faculty, administration, and other university employees, except those who are designated as a Confidential Resource in this policy. The term includes student Resident Assistants, but does not include other student employees. Responsible persons who receive a report of conduct that may constitute conduct prohibited by this policy are required to report the information to a Title IX Coordinator.

Student Life Liaison

A member of the residence life team who will be assigned to a Reporting Party or Responding Party. The Student Life Liaison will serve as the primary point of contact for questions regarding the status of a pending Title IX matter and support services available on campus and will regularly reach out to the parties to provide updates and inquire if they have any questions.

Investigating Authority

The person or entity responsible for conducting a fair and impartial investigation of alleged Prohibited Conduct under this policy. The Investigating Authority may be the Department of Public Safety, the Office of Human Resources, or another person or authority designated by a Title IX Coordinator to conduct the investigation.

Hearing Officer

The person responsible for conducting a hearing regarding alleged Prohibited Conduct under this policy and to make findings and determinations about whether a violation of this policy has occurred. The Hearing Officer may be a Title IX Coordinator or another person designated by the Title IX Coordinator to conduct the hearing.

Sex Discrimination

Unequal treatment on the basis of sex/gender that is sufficiently serious to unreasonably interfere with a person's work or ability to participate in a university program or activity.

Sexual Harassment

Unwelcome verbal, written, or physical conduct based on sex/gender that has the purpose or effect of unreasonably interfering with an individual's work or education (including living conditions) or that creates an intimidating, hostile, or offensive environment. It may consist of unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature when:

- Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment or participation in an educational program or activity, or
- Submission to or rejection of such conduct is used as a basis for an employment or educational decision affecting the individual, or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or of creating an intimidating, hostile, or offensive living, working, or learning environment.

Non-Consensual Sexual Contact

- Any intentional sexual touching,
- However slight,
- With any object or body part,
- By a person upon another person,
- Without consent and/or by force
- Other than sexual intercourse.

Sexual touching includes but is not limited to intentional contact with the breasts, buttock, groin, or genitals of another, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts.

Non-Consensual Sexual Intercourse

- Penetration,
- However slight,
- Of another person's vagina or anus,
- With a penis or object,
- Without consent and/or by force.

Sexual Assault Sexual assault includes any non-consensual sexual contact or any non-consensual sexual intercourse.

Sexual Exploitation

Taking non-consensual or abusive sexual advantage of another for one's own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, which behavior does not otherwise constitute one of the other sexual misconduct offenses. Examples include:

- Invasion of sexual privacy;
- Prostituting another person;

- Non-consensual digital, video or audio recording of nudity, sexual activity or sexting;
- Unauthorized sharing or distribution of digital, video or audio recording of nudity or sexual activity;
- Engaging in voyeurism;
- Going beyond the boundaries of consent (such as letting your friend hide in the closet to watch you having consensual sex);
- Knowingly exposing someone to or transmitting an STI, STD or HIV to another person;
- Intentionally or recklessly exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals;
- Sexually-based stalking and/or bullying

Consent

Knowing, voluntary, clear permission, by word or action, to engage in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity. In order for consent to be valid, there must be a clear expression of words or actions that the other individual consented to that specific sexual conduct.

- Consent is active, not passive.
- Silence, in and of itself, cannot be interpreted as consent.
- Consent can be given by words or actions as long as those words or actions create mutually understandable permission regarding willingness to engage in (and the conditions of) sexual activity.
- Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.
- Previous relationships or prior consent cannot imply consent to future sexual acts.
- Consent can be withdrawn once given, as long as that withdrawal is clearly communicated.
- Consent cannot be given by someone who is incapacitated
 - Incapacitation can result from physical or mental disability, sleep, unconsciousness, involuntary restraint, duress, or the consumption of alcohol, drugs, or other substances.
 - Whether the respondent knew or should have known that an individual was incapacitated is based on the totality of the circumstances.
 - Possession, use and/or distribution of "date rape" drugs, including Rohypnol, Ketamine, GHB, and Burundanga, are prohibited.

Force

The use or threat of physical violence, including threats, intimidation (implied threats) or coercion that overcomes free will or resistance or that produces consent ("Have sex with me or I'll hit you." "Okay, don't hit me; I'll do what you want.").

- Coercion is unreasonable pressure for sexual activity. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.
- NOTE: There is no requirement for a party to resist the sexual advance or request, but resistance is a clear demonstration of non-consent.

Intimate Partner Violence

Violence or abuse between those in a current or former intimate relationship to each other.

Stalking

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.

Retaliation

Any adverse action taken against a person for reporting an allegation, for supporting a reporting or responding party, or for assisting in providing information relevant to an allegation. Retaliation is considered a serious violation of this policy.

VI. REPORTING OF POTENTIAL POLICY VIOLATIONS

The university strongly encourages anyone who has experienced, witnessed, or has information pertaining to a potential violation of this policy to report the information to a Title IX Coordinator or to one of the Confidential Resources listed below.

All Responsible Persons who receive a report of a potential violation of this policy have a mandatory duty to share the report with a Title IX Coordinator unless the employee is a confidential resource listed in the “Confidential Reporting” section below. A Responsible Person’s failure to report potential violations to a Title IX Coordinator can result in disciplinary action against the employee.

Reports of potential violations must be made in good faith. Allegations made in bad faith, such as knowingly false allegations, may result in disciplinary action.

Amnesty For Alcohol or Drug Violations

Sometimes, people are hesitant to report to university officials or participate in resolution processes because they fear that they themselves may be accused of policy violations, such as underage drinking. It is vital that members of the campus community come forward to share information about potential violations of this policy. To encourage reporting, the university provides amnesty for certain drug and alcohol policy violations or other minor policy violations to persons who, in good faith, report conduct prohibited by this policy to the university or a law enforcement officer and to persons who, in good faith, participate in an investigation under this policy. Under this amnesty, the university will not impose disciplinary sanctions for that person’s own violations of university drug or alcohol policies or other minor policy violations, for conduct that occurred during or near the time of conduct prohibited under this policy, as long as the person’s conduct did not place the health or safety of another person at risk. While policy violations cannot be overlooked, the university will provide educational options, rather than punishment, to those who report conduct prohibited under this policy.

Confidential Resources and Supports

If a person who has experienced Prohibited Conduct or suspects that he/she has experienced Prohibited Conduct wishes to keep the information confidential, he or she may speak with the following Confidential Resources

- On-campus licensed professional counselors
 - Gerald Rooth – rooth@msmary.edu , 301-447-5003
 - Elizabeth Kellett – e.f.kellett@msmary.edu, 301-447-3429
 - Alesha Leonard – a.r.leonard@msmary.edu, 301-447-5002
- On-campus health service providers
- On-campus members of the clergy/chaplains working within the scope of their licensure or ordination
 - Rev. Martin Moran – m.o.moran@msmary.edu, 301-447-5223
- Off-campus:
 - Licensed professional counselors
 - Local rape crisis counselors
 - Heartly House, 24-hour hotline 301-662-8800
 - Domestic violence resources,
 - [Heartly House](#), 24-hour hotline 301-662-8800
 - Local Clergy/Chaplains

All of the above university employees will maintain confidentiality except in cases of immediate threat to safety, or suspected abuse of a minor. Reports to Confidential Resources will not trigger an investigation under this policy.

Anonymous Reporting

Anonymous reports can be made by using the online reporting form posted at www.msmu.ethicspoint.com. Note that anonymous reports may trigger an investigation under this policy. Employees and Resident Assistants who receive a report of a potential violation of this policy are not permitted to use the anonymous reporting mechanism.

Reporting to Law Enforcement

A Reporting Party has the right to file criminal charges with an appropriate law enforcement agency. At the request of a Reporting Party, the university's Department of Public Safety and/or a Title IX Coordinator will promptly assist the Reporting Party in contacting the appropriate law enforcement agencies. The following law enforcement agencies may have jurisdiction over incidents that occur on or near campus:

- Frederick County Sheriff's Office 301-600-1046
- Maryland State Police 410-379-9700

A Reporting Party who wishes to seek medical attention may request cooperation and support of the Department of Public Safety, which will provide prompt cooperation in obtaining medical attention, including transport to either of the hospitals listed below.

- Gettysburg Hospital, 147 Gettys St., Gettysburg, PA 17325
- Frederick Memorial Hospital, 400 W. 7th St., Frederick MD 21701

- Washington County Hospital, 251 E. Antietam St., Hagerstown, MD 21740.

The hospitals nearest to campus that are equipped with the Maryland Department of State Police Sexual Assault Evidence Collection Kit are Frederick Memorial Hospital and Washington County Hospital. Gettysburg Hospital is able to collect forensic evidence of a sexual assault.

Civil Remedies

Individuals experiencing harassment or discrimination have the right to file a complaint with the United State Department of Education:

U.S. Department of Education
Office for Civil Rights (OCR)
400 Maryland Avenue, SW
Washington, DC 20202-1100
Customer Service Hotline: (800) 421-3481
Facsimile: (202) 453-6012
TDD: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

Individuals experiencing harassment or discrimination may have other civil remedies available to them and may wish to consult counsel regarding those remedies.

VII. CONFIDENTIALITY AND PRIVACY

Reporting parties may want to consider carefully whether they share personally identifiable details with Responsible Persons because Responsible Persons are required to share all reports with a Title IX Coordinator.

If a reporting party does not wish for his or her name to be shared, does not wish for an investigation to take place, and/or does not want a resolution to be pursued, the individual may make such a request to the Title IX Coordinator or Deputy Coordinator, who will evaluate that request in light of the university's duty to protect members of the community and comply with Title IX. In cases indicating a pattern, predation, weapons, violence, or the threat of violence, the university likely will be unable to honor a request for confidentiality. In cases where the victim requests confidentiality and the circumstances allow the university to honor that request, the university will still offer interim supports and remedies to the victim and the community, but will not otherwise pursue investigation or resolution of the complaint. The university will support the privacy concerns by limiting disclosures of information to those that the university determines, reasonably and in good faith, to be necessary to protect health and safety interests and implement this policy.

VIII. RIGHTS OF REPORTING PARTY AND RESPONDING PARTY

Any Reporting Party or Responding Party shall have the following rights:

- the right to be informed of their rights under this policy by receiving a copy of this policy via the university's distribution and posting of this policy or by receiving a copy of this

policy promptly after a report is made by or about the Reporting Party or Responding Party;

- the right to file criminal charges as set forth within this policy;
- the right to be free from retaliation, as set forth within this policy;
- the right to be treated with dignity, respect, and sensitivity by university officials during all phases of any proceedings undertaken pursuant to this policy;
- the right to have a personal supporter of the student's choice, as set forth in this policy
- the right to a fair and impartial investigation of reports of alleged Prohibited Conduct;
- the right to prompt and equitable disciplinary procedures as set forth within this policy
- the right to be heard and participate in proceedings undertaken pursuant to this policy, as set forth in this policy; and,
- the right to appeal the outcome of proceedings under this policy, as set forth in this policy.

In addition to the rights above, a university student who is a Reporting Party or a Responding Party shall also have the following rights:

- the right to seek counseling from the university's professional counselors and/or the other Confidential Resources and Supports designated within this policy;
- the right to request his/her own transfer to alternative classes or housing, where alternatives are available and feasible; and
- the right to assistance by an attorney or an advocate in cases where sexual assault is alleged, as set forth in this policy.

The university is committed to ensuring that its resolution processes (e.g., investigation, hearing, appeal, etc.) are free from actual or perceived bias or conflicts of interest that would materially impact the outcome. Any party who feels that there is actual or perceived bias or conflict of interest that would materially impact the outcome may submit a written petition for the person's removal from the process. The petition should include specifics as to the actual or perceived bias or conflict of interest and why the petitioner believes the bias or conflict could materially impact the outcome. Petitions should be submitted promptly to a Title IX Coordinator.

IX. INTERIM MEASURES

Upon receipt of a report of Prohibited Conduct, the university may take interim measures to address safety concerns and the emotional and physical well-being of the parties and the community while the investigation and disciplinary procedures are ongoing. The interim measures may include but are not limited to:

- Referral to counseling and health services
- Altering the housing situation of the reporting party or responding party
- Altering work arrangements for employees
- Providing campus escorts
- Providing transportation accommodations

- Implementing contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.
- University education to the community

The university may suspend a student or employee pending the completion of an investigation and resolution in order to protect the safety or well-being of any member(s) of the campus community. In all cases in which an interim suspension is imposed, the student or employee will be given the opportunity to meet with the university official imposing the interim suspension. Violation of an interim suspension under this policy is grounds for expulsion or termination.

During an interim suspension, a student or employee may be denied access to university housing and/or the university campus/facilities/events. This restriction may include classes and/or all other university activities or privileges for which the student/employee might otherwise be eligible. Alternative coursework/work options may be pursued to minimize the impact of an interim suspension.

Interim measures are offered on a case-by-case basis and designed to meet the needs of the individuals involved, considering the circumstances of the situation. The individuals involved may seek interim measures or seek a change in interim measures. A student has the right to request that his or her housing or courses be changed but does not have the right to insist that another student's housing or courses be changed. The university may alter or withdraw interim measures as additional information is gathered. Interim measures are not based upon a finding of responsibility and are not an indication of a finding of fault.

X. INVESTIGATION PROCEDURES

This investigation process applies to any member of the university community (student, faculty, staff, administrator) who is alleged to have violated the university's *Title IX Policy on Sexual Harassment, Sexual Discrimination and Sexual Misconduct*. Similar procedures, as determined by the Title IX Coordinator, will apply to alleged violations by third parties depending on the identity of such third parties and the circumstances. The university will provide the reporting party and the responding party with a written explanation of their rights and options during their respective initial meetings.

The university aims to resolve Title IX complaints within sixty (60) days, which timeframe can be extended as necessary for cause by a Title IX Coordinator with notice to the reporting party and the responding party. Investigations may take longer depending on their nature or complexity. The university's process typically will not be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced. However, the university may undertake a short delay in its investigation or resolution process to comply with a law enforcement request for cooperation (e.g., to allow for criminal evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. The university will promptly resume

its investigation and processes once notified by law enforcement that the initial evidence collection process is complete. A copy of the university's *Memorandum of Understanding* with local sexual assault response organizations is on file with the Title IX Coordinator and may be viewed upon request.

All investigations will be fair and impartial and will include interviews of the Reporting Party, the Responding Party, and relevant witnesses, obtaining available evidence and identifying sources of expert information, if necessary. Witnesses are expected to cooperate with and participate in the university's investigation. Witnesses may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone or videoconference, if they cannot be interviewed in person.

The Office of Human Resources is designated to investigate any reports that any employee, other than a student employee, has allegedly engaged in Prohibited Conduct. The Department of Public Safety (DPS) is designated to investigate any reports that a student has allegedly engage in Prohibited Conduct. A Title IX Coordinator may designate another person, including a third party, to investigate reports of alleged Prohibited Conduct. For purposes of this Subsection of the policy, the Office of Human Resources, DPS, or any other person designated to investigate a report is referred to as the "Investigating Authority." The Title IX Coordinator shall provide notice to the Reporting Party and the Responding Party that an investigation is being undertaken and the name and contact information of the Investigating Authority.

The Reporting Party and the Responding Party shall be interviewed separately by the Investigating Authority.

The Investigating Authority shall provide written notice to the Reporting Party of the date, time, and location of any interview(s) of the Reporting Party. The first such written notice shall include the website address where this policy is posted.

The Investigating Authority shall provide written notice to the Responding Party of the date, time, and location of any interview(s) of the Responding Party. The first such written notice shall include a website address where this policy is posted. Prior to interviewing the Responding Party about alleged Prohibited Conduct, the Investigating Authority shall provide written notice of the date, time and location of the alleged Prohibited Conduct (to the extent that that information has been provided to the Investigating Authority) and the range of potential sanctions associated with the alleged Prohibited Conduct.

Each party shall have the right to submit to the Investigating Authority a list of witnesses with information relevant to the investigation and specific questions that the party wishes to have the Investigating Authority pose to the other party. The Investigating Authority shall make a good faith effort to contact and interview witnesses identified by the parties who have information relevant to the alleged Prohibited Conduct and witnesses that the Investigating Authority believes may have relevant information. Witnesses solely as to an individual's character will not be interviewed. The Reporting Party, Responding Party, and witnesses may

submit documentary, digital, or physical evidence relevant to the investigation. The Investigating Authority shall request that persons interviewed submit written statements.

The Investigating Authority shall consolidate the information obtained via interviews, the written statements submitted, and the other evidence into a written investigation report. The Investigation Report shall include all contents of the Investigating Authority's case file and a summary synthesizing the information gathered; it may include the Investigating Authority's impressions of credibility.

Upon completing the Investigation Report, the Investigating Authority shall provide the report to the Deputy Title IX Coordinator. The Deputy Title IX Coordinator shall determine if any identifying information of the parties or witnesses must be redacted pursuant to FERPA or safety concerns. The Deputy Title IX Coordinator shall provide a copy to the Reporting Party and the Responding Party, upon their signing a document confirming the confidential nature of the report and the prohibition against unnecessary disclosure. The Reporting Party and Responding Party may submit, in writing to the Deputy Title IX Coordinator, any concerns that they have about the information in the Investigation Report and any information that is not included in the Report. Such submissions must be delivered to the Deputy Title IX Coordinator within five (5) days after a copy of the Investigation Report is provided.

The Deputy Title IX Coordinator may request that the Investigating Authority undertake further investigatory actions. After the investigation is complete, the Deputy Title IX Coordinator shall promptly forward the Investigation Report, including any submissions from the Reporting Party or the Responding Party after their review of the Investigation Report, to the Title IX Coordinator or designated hearing officer.

XI. DISCIPLINARY PROCEDURES

Except where a report is resolved through informal resolution procedures, as provided in this policy, allegations of Prohibited Conduct will be resolved through these Disciplinary Procedures.

Formal Resolution Process for Reports of Misconduct by Students

When the Investigation Report indicates that a policy violation may have occurred, the Title IX Coordinator will initiate a hearing. The Title IX Coordinator may sit as the hearing officer or may designate another university administrator, or a neutral, qualified, third party to sit as the hearing officer.

The hearing shall commence within ten (10) days after receipt of the Investigation Report, barring unusual circumstances. The hearing officer has the authority to hear all collateral misconduct, meaning that the officer may hear any additional alleged policy violations related to the Title IX allegations. At the request of either the Reporting Party or the Responding Party, the hearing will be held via telephone or videoconference or in another way that allows the Reporting Party and Responding Party to hear each other and the witnesses, if any, but does not require them to be in the physical presence of the other. Requests for

accommodation of disabilities in the hearing process should be directed to the hearing officer in advance.

Pre-Hearing Procedures

At least five (5) days prior to the hearing, or as far in advance as is reasonably possible if an accelerated hearing is scheduled with the consent of the parties, the hearing officer will send a letter to the parties with the following information:

- A description of the alleged violation(s) and, a description of the applicable procedures;
- The time, date and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities. If a party does not appear at the scheduled hearing, the hearing will be held in his or her absence. For compelling reasons, the hearing officer may reschedule the hearing.
- Notification that the parties may have the assistance of an supporter at the hearing;
- If applicable, as set forth in this policy, notification of the parties' right to assistance of an attorney or advocate; and,
- The names of any witnesses, if any, that the hearing officer will call to attend the hearing.

Within two (2) days after issuance of the hearing officer's notice, the Reporting Party and Responding Party shall submit to the hearing officer any request that the hearing be held in a manner that does not require the Reporting Party and the Responding Party to be in the physical presence of the other. At the same time, the Reporting Party and Responding Party may submit specific questions that they wish to have the hearing officer pose to the other.

Hearing Procedures

The Reporting Party and Responding Party will have ample opportunity to present their testimony and evidence at the hearing. The parties may include evidence regarding how the alleged Prohibited Conduct has impacted them. The parties are not permitted to question each other directly or to cross-examine each other. During the hearing, the Reporting Party and Responding Party may request that the hearing officer pose specific questions to the other party. Unless the question seeks information that is irrelevant or has no proper purpose, the hearing officer shall pose the question to the other party.

Prohibited Evidence

Character evidence, i.e. evidence that speaks solely to an individual's character, is not permitted.

Evidence of a party's prior sexual history with an individual other than a party to the proceedings is prohibited, except to (a) prove the source of an injury; (b) prove sexual misconduct; (c) support a claim that a party has an ulterior motive; or (d) impeach a party's credibility after the party has put his or her own prior sexual conduct at issue.

Evidence of a party's history of mental health counseling, treatment, or other diagnosis is prohibited, unless the party consents to the introduction of that evidence.

Deliberation and Decisions

The hearing officer will deliberate in closed session to determine whether the Responding Party is responsible or not responsible for the policy violation(s) alleged. The hearing officer will base his or her determination(s) on a preponderance of the evidence (i.e., whether it is more likely than not that the responding party committed each alleged violation). The preponderance of the evidence standard of proof is the same as that which applies to the determination of all allegations of discrimination or harm to an individual.

Within 48 hours after the closing of the hearing, the hearing officer will prepare a preliminary written report setting forth the proposed findings of fact and conclusions and will provide the preliminary written report to the Reporting Party and Responding Party. Unless the hearing officer is the Title IX Coordinator, the preliminary written report shall also be provided to the Title IX Coordinator. Within 48 hours after issuance of the preliminary written report, the Reporting Party and Responding Party shall provide any written response that they have to the preliminary report to the hearing officer.

Promptly after review of the preliminary report and any responses submitted by the parties, the hearing officer shall issue simultaneous, written notice to the Reporting Party and the Responding Party of the final determination. If the hearing officer is not a Title IX Coordinator, the hearing officer shall provide a copy of the final determination to the Title IX Coordinator, who shall determine any sanction to be imposed. Notification of the final determination and sanction, if any, will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official university records; or emailed to the parties' university-issued email account.

Where a violation is found, the university will act to end the discrimination, prevent its recurrence, and remedy its effects on the Reporting Party and the university community.

Records of all allegations, investigations, and resolutions of sex discrimination or sexual harassment matters, including sexual assault, intimate partner violence, and stalking, will be kept by the Title IX Coordinator in the electronic Title IX database.

Sanctions

For students who are found responsible for a violation of this policy, the potential sanctions include disciplinary actions as set forth in the Student Code of Conduct. For employees who are found responsible for a violation of this policy, the potential sanctions include any form of responsive action, or progressive discipline set forth in the employee handbook. Sanctions may be imposed individually, or a combination of sanctions may be imposed. The determination of sanctions is based upon a number of factors, including the nature of the Prohibited Conduct, the harm suffered by the Reporting Party, any ongoing risk posed by the Responding Party, the impact of the violation on the campus community, previous conduct

violations, and any mitigating or aggravating circumstances. In cases where a Responding Party is found responsible for non-consensual sexual intercourse, non-consensual sexual contact, domestic violence, dating violence, or stalking, the potential sanctions include probation, residence hall separation (for students), campus restriction, suspension, expulsion (for students), and dismissal.

The Title IX Coordinator will meet with the University officials who will implement sanctions to ensure that sanctions imposed under the Title IX Policy are properly and fully enforced.

XII. PARTICIPATION OF PERSONAL SUPPORTER

The Reporting Party and Responding Party are entitled to a personal supporter to guide and accompany them throughout the investigation and disciplinary procedures.

The Reporting Party and Responding Party are entitled to be accompanied by their personal supporter in all meetings and interviews at which the party is entitled to be present, including intake, interviews, hearings and appeals. Personal supporters should help their advisees prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. Personal supporters may not present on behalf of their advisee in a meeting or hearing. Personal supporters may confer quietly with their advisees as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their personal supporters should ask for breaks or step out of meetings to allow for private conversation. Personal supporters will typically be given a timely opportunity to meet in advance of any interview or hearing with the administrative officials conducting that interview or meeting. This pre-meeting will allow personal supporters to clarify any questions they may have, and allows the university an opportunity to clarify the role of the personal supporter.

Personal supporters are expected to refrain from interference with the university investigation and resolution. Any personal supporter who violates these expectations will receive a warning. If the personal supporter continues to disrupt or otherwise fails to respect the limits of the personal supporter role, the personal supporter will be asked to leave the meeting. When a personal supporter is removed from a meeting, the meeting will typically continue without the personal supporter. Subsequently, the Title IX Coordinator or a deputy will determine whether the personal supporter may be reinstated, may be replaced by a different personal supporter, or whether the party will forfeit the right to a personal supporter for the remainder of the process.

The parties are responsible for sharing any documentation with their personal supporters. Personal supporters must maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the university. The university may seek to restrict the role of any personal supporter who does not respect the sensitive nature of the process or who fails to abide by the university's privacy expectations.

The university expects personal supporters to adjust their schedule to allow them to attend meetings when scheduled. The university typically does not change scheduled meetings to

accommodate a personal supporter's inability to attend. The university will, however, make provisions to allow a personal supporter who cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies as may be convenient and available.

The parties must advise the Investigating Authority of the identity of their personal supporter at least two (2) business days before the date of their first meeting in which the personal supporter will participate. The parties must provide subsequent timely notice to the Investigating Authority if they change personal supporters at any time. No audio or video recording of any kind other than as required by institutional procedure is permitted during meetings with campus officials.

XIII. ADDITIONAL STUDENT RIGHTS IN PROCEEDINGS ALLEGING SEXUAL ASSAULT

The procedures in this section shall apply only when (1) a Reporting Party alleges conduct that, if proven, would constitute Sexual Assault and (2) the conduct is alleged to have occurred when either the Reporting Party or the Responding Party (or both) were enrolled as a student of the university.

Right to Attorney/Advocate and Personal Supporter

When these procedures apply, the Reporting Party and the Responding Party shall each have the following rights:

- *the right to assistance of an attorney or an advocate throughout the investigation and disciplinary proceedings, including the attorney or advocate's:
 - a. *attendance at hearings, meetings, and interviews with the student;*
 - b. *private consultations with the student during hearing, meetings, and interviews, except during questioning of the student at a hearing; and*
 - c. *assistance with the student's exercise of any right during the disciplinary proceedings;**
- *the presence of no more than two people, including a personal supporter of the student's choice, an attorney, or an advocate, at any hearing, meeting or interview during the investigation and disciplinary proceedings.*

Attorneys or advocates may not present on behalf of the student in a meeting or hearing. Attorneys or advocates may confer quietly with their advisees as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their attorneys or advocates should ask for breaks or step out to allow for private conversation.

Attorneys or advocates are expected to refrain from interference with the university investigation and resolution. Any attorney or advocate who violates these expectations will receive a warning. If the attorney or advocate continues to disrupt or otherwise fails to respect the limits of their role, the attorney or advocate will be asked to leave the meeting.

The parties are responsible for sharing any documentation with their attorneys or advocates. Attorneys or advocates must maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the university. The university may seek to restrict the role of any attorney or advocate who does not respect the sensitive nature of the process or who fails to abide by the university's privacy expectations. The university expects attorneys or advocates to adjust their schedule to allow them to attend meetings and hearings when scheduled. The university will make provisions to allow an attorney or advocate who cannot attend in person to attend a meeting or hearing by telephone, video and/or virtual meeting technologies as may be convenient and available.

The parties must advise the Investigating Authority of the identity of their attorney or advocate at least two (2) business days before the date of their first meeting in which the attorney or advocate will participate. The parties must provide subsequent timely notice to the Investigating Authority if they change attorney or advocate. No audio or video recording of any kind other than as required by institutional procedure is permitted during meetings with campus officials.

Unless a student waives the right to counsel, the Maryland Higher Education Commission (MHEC) shall pay reasonable costs and attorney's fees for the Reporting Party and Responding Party as described in this paragraph. MHEC maintains a list of attorneys and legal services programs willing to represent students on a pro bono basis or at fees equivalent to those paid to attorneys under civil legal services programs administered by the Maryland Legal Services Corporation. Prior to the conclusions of the Disciplinary Procedures, a Reporting Party or Responding Party may select an attorney from the list maintained by MHEC. If a student selects and retains an attorney who is not on the list maintained by MHEC, MHEC shall pay fees to the attorney selected by Reporting Party or Responding Party that are equivalent to those paid to attorneys under civil legal services programs administered by the Maryland Legal Services Corporation. MHEC is not required to pay for representation in a criminal or civil matter.

Please visit the Maryland Higher Education Committee webpage for further information regarding Sexual Assault Proceedings and more information about legal representation:

<https://mhec.maryland.gov/Pages/Title-IX-Campus-Sexual-Assault-Proceedings.aspx>

When these procedures apply, the first written notice provided to the Responding Party and the Reporting Party by the Investigating Authority shall direct the recipient to the provisions of this policy regarding the student's right to the assistance of an attorney or an advocate, the legal services organizations and referral services available to the student, and the student's

right to have a personal support of the student's choice at any hearing, meeting, or interview. The university shall not discourage a Reporting Party or a Responding Party from retaining an attorney.

XIV. INFORMAL RESOLUTION PROCEDURES

The university will determine if Informal Resolution of a report is appropriate based on the willingness of the parties, the nature of the conduct at issue, and the susceptibility of the conduct to conflict resolution. Informal Resolution will not be used unless the Reporting Party requests it and the Responding Party and the university agree to it. Informal Resolution will not be used if the alleged conduct involves sexual assault or sexual coercion.

In an Informal Resolution meeting, a trained administrator will facilitate a dialogue with the parties in an effort to achieve an informal resolution. At any time while the informal resolution process is ongoing, the Reporting Party, Responding Party, or university may end the information resolution process and seek a formal resolution. Sanctions are not imposed as the result of an informal resolution process, although the parties may agree to appropriate remedies. The university will keep records of any resolution that is reached.

XV. APPEALS

A Reporting Party or Responding Party may appeal the decision and/or sanctions by filing an appeal in writing to a Title IX Coordinator within five days after the written decision is issued by the hearing officer. When a Title IX Coordinator serves as the hearing officer, any appeal shall be made to the other Title IX Coordinator. The ONLY grounds for appeal are as follows:

1. A procedural error occurred that significantly impacted the outcome of the hearing.
2. To consider new evidence, unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.
3. The sanctions imposed fall outside the typical range of sanctions for the offense and, if applicable, the cumulative conduct history of the respondent.

The Title IX Coordinator will first determine whether the appeal is timely and states appropriate grounds for appeal and may dismiss an untimely or improper appeal. If the appeal request is accepted, the Title IX Coordinator will share the appeal request with the other party, who may file a response. (The same process will be followed if both parties appeal.) The Title IX Coordinator will decide the appeal and send a letter of outcome to all parties. The Title IX Coordinator can:

1. Uphold the finding(s) and sanction(s);
2. Overturn the finding(s) and/or modify the sanction(s); or
3. Remand the matter to the hearing officer for further review.

If the appeal is remanded to the hearing officer for further review, the reconsideration of the hearing body is not appealable. In rare cases where a procedural error cannot be cured, the Title IX Coordinator may order a new hearing with a new hearing officer. The results of a new hearing can be appealed, once.

All sanctions imposed by the hearing officer will be in effect during the appeal. A request may be made to the Title IX Coordinator to delay implementation of the sanctions until the appeal is decided due to exigent circumstances. Graduation, study abroad, internships, etc., do NOT in and of themselves constitute exigent circumstances.

The Title IX Coordinator typically will render a written decision on the appeal to all parties within five (5) business days from hearing of the appeal. The Title IX Coordinator's decision to deny an appeal is final.

XVI. RETALIATION

Neither the university nor any student or employee may engage in retaliation against any person because of their participation in the reporting, investigation, or disciplinary proceedings under this policy. Retaliation includes acts or statements made against a person based upon their good faith participation in an activity under this policy. Retaliation may be found even when an underlying report made pursuant to this policy was not substantiated.

XVII. POSTING AND DISTRIBUTION OF THIS POLICY

This policy shall be posted in the Dean of Students Office, the Office of Human Resources, the Department of Public Safety, the Counseling Center, and the Center for Campus Ministry. This policy shall be posted on the university's website and distributed electronically, at least once per year, to all students and employees via their campus email.

February 26, 2020