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Message from the Director of the Department of Public Safety

Mount St. Mary’s University Department of Public Safety (DPS) is making available the 2020 Annual Security and Fire Safety Report to current and prospective students, faculty, staff, and all interested members of the university community. This report contains information on campus security policies and procedures at Mount St. Mary’s University, as well as certain crime statistics reported to DPS and local law enforcement agencies.

Ensuring the safety and well-being of students, faculty, staff, alumni, and visitors is the department’s leading priority. The Department of Public Safety is committed to providing the highest level of professional public safety services while protecting and serving the university community. This vision will be realized by maintaining a unified organization staffed with dedicated, well-trained, and well-equipped personnel who demonstrate a high degree of character and values. In concert with both our internal and external partners we will work to identify public safety needs and respond accordingly through appropriate planning, mitigation, response, and recovery efforts.

The information provided in this report is designed to be a resource and to advise the campus community of the current programs, policies, and procedures related to crime awareness and reporting at the Mount. This report also includes statistics for the previous three years concerning reported crimes that occurred on campus, in certain off-campus buildings, property owned or controlled by the university, and on public property within or immediately adjacent to and accessible from the campus. The Annual Fire Safety requirements mandated by the Clery Act are also included in this year’s report.

This report is being provided in accordance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act. The Jeanne Clery Act is a federal law that requires colleges and universities across the United States to disclose timely and annual information about campus crime statistics and safety and security policies. We encourage all members of the Mount St. Mary’s University community to use this report as a guide and to take an active role in maximizing your personal safety both on and off campus.

This publication can be accessed online at the web-link: https://inside.msmary.edu/public-safety/index.html#annual-security-report. Hard copies of this report are available at the Department of Public Safety headquarters, located at the intersection of Old Emmitsburg Road and Annandale Road, Emmitsburg, Maryland. You can request a copy by mail or by contacting DPS at (301)447-5357.

Ron Hibbard, Director
Department of Public Safety
Introduction

Mission: As a Catholic university, Mount St. Mary’s graduates ethical leaders who are inspired by a passion for learning and lead lives of significance in service to God and others.

About MSMU: Mount St. Mary’s is a private, coed university (nonprofit) that was established in 1808 and currently enrolls over 2,500 total students. The main campus is situated on 1400 acres in a picturesque rural mountain setting located at 16300 Old Emmitsburg Road, Emmitsburg, Maryland. The Frederick campus is located at 5350 Spectrum Drive in Frederick, Maryland. The university is accredited by:

- Middle States Commission on Higher Education (MSCHE)
- The National Council for the Accreditation of Teacher Education (NCATE)
- International Accreditation Council for Business Education (IACBE)
- Commission on Accrediting of the Association of Theological Schools (ATS)
- Commission on English Language Program Accreditation (CEA)

The Clery Act

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (also known as the Clery Act) requires colleges and universities to comply with the following three broad categories:

1. **Clergy Act crime statistics and security-related policy requirements that must be met by every institution.** These requirements include collecting, classifying, and counting crime reports and statistics; issuing campus alerts which include “Timely Warnings” and “Emergency Notifications;” provide educational programs and campaigns that promote the awareness of dating violence, domestic violence, sexual assault, and stalking; have procedures for institutional disciplinary action in cases of dating violence, domestic violence, sexual assault, and stalking; publish an Annual Security Report; and submit crime statistics to the US Department of Education.

2. **If your institution maintains a campus police or security department, you must keep a daily crime log of alleged criminal incidents that is open to public inspection.**

3. **If your institution has any on-campus student housing facilities, you must disclose missing student notification procedures, and disclose fire safety information related to those facilities.**

Campus Security Authorities
A Campus Security Authority (CSA) is a term used in the Clery Act to describe someone who has significant responsibility for student and campus activities. The regulations that govern the Clery Act define a CSA as:

1. A campus police department or a campus security department of an institution.

2. Any individual or individuals who have responsibility for campus security but who do not constitute a campus police or security department, such as an individual who is responsible for monitoring entrance into institutional property.

3. Any individual or organization specified in an institution’s statement of campus security policy as an individual or organization to which students and employees should report offenses.

4. An official of an institution who has significant responsibility for student and campus activities, including but not limited to, student housing, student discipline, and campus judicial proceedings.

Pastoral and professional counselors on campus are not considered to be CSAs when they are acting in the role of pastoral or professional counselors and are not required to report Clery reportable offenses. Professional counselors at the university are encouraged to inform persons being counseled of the procedures to report crimes on a voluntary, confidential basis to a CSA or the Department of Public Safety.

*Pastoral Counselor:* An employee that is recognized by a particular religious order or denomination as someone who provides confidential counseling and who functions within the scope of that recognition as a pastoral counselor.

*Professional Counselor:* An employee whose official responsibilities include providing psychological counseling to members of the institution’s community and who also functions within the scope of their license or certification.

### Preparing the Annual Security and Fire Safety Report

The Director of the Department of Public Safety is responsible for compiling the statistical information and policy disclosures for the Annual Security Report in compliance with the requirements of the Clery Act. In preparing our annual disclosure of crime statistics, the Department of Public Safety collects information reported directly to DPS and also formally requests information about crimes and disciplinary referrals from Campus Security Authorities, including representatives from the Residence Life Office, Judicial Affairs, Athletics, etc. In addition, DPS collects statistics from these local law enforcement agencies with jurisdiction for areas where Mount St. Mary’s University property is located or areas frequented by students:
• Frederick County Sheriff’s Office
• Maryland State Police

Local police departments are not required to provide statistics; however, documentation is required to show a good faith effort was made. All statistics are reviewed by Public Safety staff members for accuracy and then forwarded to the Director for final review and approval. Once approved, statistics are submitted electronically to the U.S. Department of Education.

By October 1 of each year, the Department of Public Safety sends an email notification to the Mount St. Mary’s University community of the report’s availability. This email contains a brief description of the information contained in the report as well as a direct web link to the report. It is important to note that the *Annual Security and Fire Safety Report* incorporates the university’s Fire Safety reporting requirements into this one document. A link to the *Annual Security and Fire Safety Report* is included in the Department of Public Safety’s email notification as well.

**Reporting Crimes and Other Emergencies**

Complaints of criminal activity on campus should be immediately reported to the Mount St. Mary’s Department of Public Safety. Students and employees of the university should report crimes to Public Safety by calling (301) 447-5357. Prompt and accurate reporting to Public Safety is important to facilitate investigation and improve the preservation of evidence. Reports to Public Safety may form the basis of criminal charges (violations of state or federal law) and/or university discipline cases (violations of the *Student Code of Conduct*). The victim’s wishes are always taken into consideration.

Blue light, direct dial emergency assistance phones are strategically located throughout the campus grounds for accessibility in an emergency. These phones are available to call for help, report suspicious activity, and/or call for an escort or other services. Employees or students wishing to make a report of a criminal incident, whether they are a victim, witness, or third party, may do so to the following offices or individuals:

• The Department of Public Safety at 301-447-5357
• Campus Emergency Line at 301-447-5911
• The local police at 911
• Any Campus Security Authority

It is the policy of the Office of Residence Life and the Department of Public Safety to provide prompt, sensitive, and confidential service to all members of the campus community who may require their assistance. Because of the nature of their duties, staff members treat all crimes reported to them as official matters and investigate them accordingly. Anyone desiring to discuss such matters in a less official, non-investigative setting with a Mount official with
counseling duties may contact the Office of Health and Counseling Services at 301-447-5288 (ext. 5288 on campus phones) or Campus Ministry at 301-447-5223 (ext. 5223 on campus phones). Incidents of a bias-related nature based on an individual’s cultural background, including race, gender, religion, sexual orientation, ethnicity/national origin, and disability can also be discussed with the Director of the Center for Student Diversity at 301-447-5474 (ext. 5474 from any on-campus phone).

If the victim of a crime does not want to pursue action within the Mount St. Mary’s student conduct system or the criminal justice system, the victim may still want to make an anonymous report. The purpose of an anonymous report is to comply with the victim’s wish to keep the matter confidential, while taking steps to ensure the future safety of the Mount community. With this information, the Mount can keep an accurate record of the number of incidents involving students, determine if there is a method of operation, or an assailant, and alert the university community to potentially hazardous conditions. Reports filed in this manner are counted and disclosed in the Annual Security Report crime statistics for the institution. Information on a crime that occurred on or off campus involving a member of the Mount community can be submitted anonymously on-line to the Department of Public Safety. Individuals wishing to make such a report are instructed to go to the Mount Report form link on the Public Safety web page at https://inside.msmary.edu/public-safety/index.html.

Pastoral counselors and professional counselors are encouraged, if and when they deem it appropriate, to inform the persons they are counseling of any procedure to report crimes on a voluntary and confidential basis for inclusion in the Annual Security and Fire Safety Report.

The Department of Public Safety

The mission of the Mount St. Mary’s University Department of Public Safety is to cooperate with the university community in providing a safe and secure environment where teaching and learning are encouraged and advanced. In furtherance of that mission, the Department of Public Safety is a customer-service oriented, safety-centered organization committed to the protection of the members of the university community, their property, and the property of the university through the sound application of problem-solving, education, and emergency preparedness and response.

The Department of Public Safety is responsible for providing law enforcement, fire, EMS, security, and emergency management related functions on the Mount St. Mary’s University campuses. The members of the department act as the university’s first responders to emergencies and calls for service and are the only university department open twenty-four hours a day, seven days a week.

The department consists of a director, a deputy director, a captain, three (3) lieutenants who are shift supervisors, eight (8) full-time officers who also serve as dispatchers, two (2) full-time
dispatcher, a Training and Emergency Management Coordinator, and additional administrative and on-call support staff.

Mount St. Mary’s University Department of Public Safety officers are not sworn law enforcement officers with arrest powers but do have the authority to enforce the university’s Student Code of Conduct and document the violations of the code and the laws of the State of Maryland to the Office of Residence Life for judicial review. The officers’ jurisdiction is strictly limited to university owned property. Before being employed as a Public Safety officer, applicants must pass a criminal background check and a personal background investigation. All officers receive emergency medical training in addition to year-round training in areas related to campus safety.

The Department of Public Safety maintains a cooperative relationship with the Frederick County Sheriff’s Office and the Maryland State Police. This cooperation includes participation in training programs, special events coordination, assistance with imminent or active threats to the community, investigation of serious crimes, and patrolling areas and responding to incidents involving criminal activity both on and off campus. Designated members of the agency also meet with Frederick County Sheriff’s Office monthly, or more often as needed, to discuss campus crimes and other police intelligence matters. Lastly, the United States Secret Service and the Federal Bureau of Investigation work with university public safety whenever a domestic, national or international dignitary visits the university.

**Timely Warning Policy**

In the event that a Clery Act crime has occurred on campus, on non-campus property, or public property running through or immediately adjacent to the campus, a “Timely Warning Notification” (ALERT) will be issued without disclosing the names of the victims when it is determined by the director of the Department of Public Safety (DPS), that the incident may pose a serious or ongoing threat to the members of the Mount St. Mary’s University community.

Timely Warning Notifications are typically issued for Clery Act reportable crimes and are considered on a case-by-case basis. Those factors include the nature of the crime and the continuing danger to the campus community. For example, whether the perpetrator has been apprehended or the threat has been otherwise mitigated would be included in the notification. Alerts will be issued by DPS via a campus wide email as soon as pertinent information is received and it is determined that the reported incident may pose a serious or ongoing threat to the Mount St. Mary’s University community.
**Emergency Response and Evacuation Procedures**

Mount St. Mary’s University recognizes the need to prepare for and to respond to emergency incidents that pose a threat to the health and safety of the university community. Upon confirmation that a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees is occurring on campus, Mount St. Mary’s University will provide immediate notification of the emergency or dangerous situation to the campus community. The director of the Department of Public Safety shall be responsible for confirming the emergency, determining which segments of the campus community should be notified, the content of the notification, and for initiating the notification system(s). This process shall proceed as normal unless issuing the notification will compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.

The university has implemented the Mount Alert mass notification system that provides telephone, e-mail, and text notification to the university community during an emergency. That system is tested at least twice every semester. Testing of the university’s emergency notification system(s) may be announced or unannounced.

The Department of Public Safety shall ensure that it publicizes the university’s emergency response and evacuation procedures in conjunction with at least one test of the system on an annual basis. Such tests shall be documented by the Department of Public Safety indicating the type of exercise, date, time, and whether or not it was an announced or unannounced test of the system.

The university also maintains an All-Hazards Emergency Response Plan that is updated regularly. The Emergency Management Team is an arm of the university created through the All-Hazards Emergency Response Plan to coordinate the university’s response to incidents that pose a threat to or otherwise adversely affect the university community or the operations of the university.

**Security Considerations Used in the Maintenance of Campus Facilities**

Facilities and landscaping are maintained in a manner that minimizes unsafe conditions. Malfunctioning lights and other unsafe physical conditions are reported by the Department of Public Safety to the Physical Plant for correction. Resident Assistants (RA’s) and other members of the Mount community are helpful when they report equipment problems to the Department of Public Safety or to the Physical Plant. The Department of Public Safety conducts a campus security inspection to identify and correct any unsafe conditions on the campus grounds.
All university buildings are the private property of Mount St. Mary’s University and are advertised in publications and posted as such with trespass warnings. These buildings, including administrative, academic, and residential facilities, are open for business at designated times.

The university grants access to its buildings based on need. Students have twenty-four (24) hour access to their residence hall. Students have access to other campus buildings during normal business hours. Students are often granted special permission to utilize specific areas after hours for special projects. In these cases, the students are either issued keys for the area or are granted entrance to the area by a Public Safety officer. Students have after-hours access to computer labs, science labs, art rooms and galleries, etc. Visitors may have access to residence halls when they are invited guests of building residents. Students are required to register their guests and their guests’ vehicles with Public Safety. Students are responsible for the behavior of their guests and are required to accompany their guest at all times while they are on campus.

The exterior doors to the residence halls are secured twenty-four (24) hours a day. Under normal university operations, resident students have access to all residence halls between 8:00 am and 6 p.m. Between 6 p.m. and 8:00 a.m. the exterior door access of each residence hall is limited to only those students residing in that specific hall. As a result of the change in operations due to COVID-19, student access is restricted to their own residence hall twenty-four (24) hours a day. Interior floor doors are secured by student Resident Assistants (RA) at midnight during the week and 2 a.m. on weekends, and opened by Public Safety at 6 a.m.

Resident Assistants conduct safety and security patrols through the halls until midnight on weekdays and 2 a.m. on weekends. Public Safety officers patrol the halls when Resident Assistants are off duty. Public Safety officers will patrol the halls any time a potential problem exists in any of the halls.

Residents are responsible for ensuring that their windows and room doors are secured. All residents are issued access cards to their residence hall and keys to their individual room. The core to a resident's door is changed when a lost key is replaced. Work orders for safety problems are submitted to the Physical Plant for repair.

Public Safety officers and Resident Assistants receive training on checking for and reporting fire and safety hazards and malfunctioning security devices. Work orders are submitted to the Physical Plant and are monitored for repair.
Security cameras are in place in and around the tunnel to East Campus, in parking lot 12 on East Campus, and in Powell, Sheridan, Pangborn, Bradley, Cottages, and the Terrace residence halls. The efficacy of security cameras at other locations on campus is evaluated on an annual basis.

Off Campus Student Organizations

Mount St. Mary’s University does not have any officially recognized student organizations that have housing facilities “off campus.” There may be students who are residing in privately owned homes/apartments near the campuses or in local communities. If the Frederick County Sheriff’s Office (FCSO) is called by a citizen to respond to one of these locations, FCSO will typically notify the Department of Public Safety of the situation. However, FCSO does this out of courtesy and is not required to notify or involve Public Safety when they respond to a call involving private property.

Missing Student Notification Policy

Mount St. Mary’s University considers the safety of our students to be essential in the creation and maintenance of an environment where learning is encouraged and supported. The purpose of this policy is to establish procedures to guide the University’s response to reports of missing resident students in support of that proposition. Reports of missing commuter students may also be made to the Department of Public Safety who can then notify and assist the appropriate law enforcement authority in an investigation of the missing student.

Each Mount St. Mary’s University student who is 18 years of age or older or who is legally emancipated has the opportunity to identify an individual or individuals to be contacted by the University’s Department of Public Safety or Dean of Students whenever circumstances indicate that the student may be missing or otherwise endangered. In the event the student is under 18 years of age and is not emancipated, the University is required to make any missing student notification to the custodial parent(s) or guardian(s).

Any reports of a missing student should be directed to the Department of Public Safety in person or by telephone at (301) 447-5357. An investigation into the circumstances surrounding the student being reported missing will be promptly initiated by the Department of Public Safety and the Office of Residence Life. Nothing herein shall prohibit the investigation of a report of a student missing before a specific amount time has elapsed.

Investigative steps may include but are not limited to:

1. Calling the student’s personal cell phone on record.
2. Entering the student’s residence hall room.
3. Checking class schedules and visiting scheduled classes.
4. Contacting faculty members regarding class absences.
5. Contacting known friends, roommates, acquaintances, and place(s) of work, if any.
6. Checking vehicle registration records for vehicle information and searching the vicinity for any registered vehicles.
7. Checking MountCard records for purchase history and/or building access information.

Upon receipt of a credible report of a missing student the Department of Public Safety will notify the appropriate law enforcement authority of the report of the missing student as soon as practicable. If a reportedly missing student is not located within 24 hours of the initial report the university is required by law to contact the appropriate law enforcement authority. Nothing herein shall prohibit the prompt notification of the appropriate law enforcement authority of a report of a student missing in fewer than 24 hours.

Once the Department of Public Safety and/or appropriate law enforcement authority has been notified and makes a determination that a student who is the subject of a missing person report is indeed missing the Dean of Students or his/her designee shall initiate the emergency contact procedure using the student’s designated emergency contacts.

Following notification of the appropriate law enforcement authority the university will cooperate in the investigation and offer assistance necessary to locate a missing student.

Daily Crime Log

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1990 (Clery Act) requires colleges and universities to have a Daily Crime Log. The purpose of this log is to record all criminal or alleged criminal incidents that are reported to campus police or the security department. This log includes incident classification, report number, reported date and time, occurrence date and time, location of incident and disposition, does not include any identifying information about persons involved in an incident. The Department of Public Safety is responsible for maintaining this log for the University and for ensuring that it is updated within two business days of being notified of an incident.

To view the log for the most recent sixty (60)-day period, please visit the Department of Public Safety, 16300 Old Emmitsburg Road, Emmitsburg, Maryland, during normal business hours (Monday through Friday 8:30 a.m. to 4:30 p.m.). Public Safety retains Daily Crime Logs for seven (7) years. Requests for logs that are more than sixty (60) days old will be fulfilled within two (2) business days.

Security Awareness Programs
Residence Life, the Office of Health and Counseling Services, and the Department of Public Safety provide crime prevention, fire safety, personal safety, and wellness programs throughout the school year. (See Appendix A)

Residence Life utilizes bi-weekly Resident Assistant meetings as an opportunity to understand any issues and concerns in the residence halls and to facilitate small groups in hall meetings and assist with programs to engage the students.

Safety programs for the entire community, involving on and off campus professionals, guest speakers, and other activities are conducted in the Knott Auditorium, Delaplaine Fine Arts Center, and other group setting locations on campus.

During the Fall and Spring semester new student orientations, the Director of Public Safety and the Dean of Students or another Student Affairs Professional Staff member meet with all first-year and transfer students to provide information on sexual assault policies and prevention, fire safety, personal safety, crime prevention, and crime reporting.

Special activities are scheduled each Campus Fire Safety Month in September, in October during Fire Safety Week, Crime Prevention month, and in April during Sexual Assault month.

The Human Resources Department meets with every new employee during their orientation to inform them of safety/security issues, university policies, the Annual Security and Fire Safety Report, and how to report crime or suspicious behavior.

**Crime Prevention Programs**

Mount St. Mary’s University takes a proactive approach to crime awareness and prevention. Students, faculty, and staff are reminded to take responsibility for their own safety by being aware of their surroundings, locking the doors to their cars and residences, and reporting unusual events to the Department of Public Safety. Educational programs are offered in the residence halls and brochures are available through the Department of Public Safety.

The Department of Public Safety provides vehicle and/or walking escort service during hours of darkness and at other times based on circumstances. Students and staff are encouraged to utilize this service any time they feel uncomfortable with walking across campus. Students and staff are instructed to call Public Safety at 301-447-5357 to request the escort service. Instructions are provided at that time for meeting the escort.
Information is also disseminated to students and employees through handouts, brochures, flyers, security alert posters, and bulletin boards. E-mails regarding crime prevention and safety issues are sent to the entire community providing information to help community members protect themselves on and off campus. For additional information on crime prevention programs contact the Department of Public Safety at (301)447-5357, or visit the website at https://inside.msmary.edu/public-safety/index.html.

Although Mount St. Mary’s strives to ensure the safety of all individuals within its community, students and employees must take responsibility for their personal belongings and their own personal safety. Common sense precautions are the most effective means of maintaining personal safety.

Students and employees are provided information regarding campus safety and security policies, procedures and practices, and also about their personal safety responsibility for themselves and others at programs, orientation, and with posters and handouts.

Students are strongly encouraged to keep their residence hall room door secured when they are away or asleep, not to prop hall doors, and use escort and emergency phone services. Employees are encouraged to alert Public Safety when working alone on campus and to use the escort service when working late. Students and employees are encouraged to call Public Safety if they witness any suspicious activity on or near campus.

Campus Sex Crimes Prevention Act

The Federal Campus Sex Crimes Prevention Act requires colleges and universities to issue a statement advising the campus community where state law enforcement agency information concerning registered sex offenders may be obtained. The act also requires registered sex offenders to provide to the appropriate state official notice of each institution of higher education in the state at which the offender is employed, carries on a vocation, or is a student.

In complying with the Federal Campus Sex Crimes Prevention Act, the Mount St. Mary’s University Department of Public Safety has established a procedure to advise interested parties where current sex offender registration information, at which the person is employed or is a student at the university, may be obtained. The Department of Public Safety informs the campus community each academic year where they can find information on registered sex offenders in compliance with the Adam Walsh Child Protection and Safety Act. For more information, please visit the Maryland Sex Offender Registry website at: http://www.socem.info
Mount St. Mary’s University Policy on Title IX Sexual Harassment

IF YOU BELIEVE YOU OR ANYONE ELSE IS IN IMMEDIATE DANGER, CALL 911 or the Department of Public Safety

<table>
<thead>
<tr>
<th>Resource</th>
<th>Phone</th>
<th>Website</th>
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<tbody>
<tr>
<td>Department of Public Safety</td>
<td>(301) 447-5357</td>
<td><a href="https://inside.msmary.edu/public-safety/index.html">https://inside.msmary.edu/public-safety/index.html</a></td>
</tr>
<tr>
<td>Counseling Services</td>
<td>(301) 447-5288</td>
<td><a href="https://inside.msmary.edu/health-services/counseling-services.html">https://inside.msmary.edu/health-services/counseling-services.html</a></td>
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<td>Health Center</td>
<td>(301) 447-5288</td>
<td><a href="https://inside.msmary.edu/health-services/index.html">https://inside.msmary.edu/health-services/index.html</a></td>
</tr>
<tr>
<td>Office of Campus Ministry</td>
<td>(301) 447-5223</td>
<td><a href="https://msmary.edu/campus-life/get-involved/campus-ministry-office.html">https://msmary.edu/campus-life/get-involved/campus-ministry-office.html</a></td>
</tr>
<tr>
<td>Heartly House (rape crisis center)</td>
<td>(301) 662-8800</td>
<td><a href="http://www.heartlyhouse.org">www.heartlyhouse.org</a></td>
</tr>
<tr>
<td>Frederick County Sheriff’s Office</td>
<td>(301) 600-1046</td>
<td><a href="https://www.frederickcosheriff.com/">https://www.frederickcosheriff.com/</a></td>
</tr>
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I. Notice of Non-Discrimination

Mount St. Mary’s University is committed to providing an educational and work environment in which all members of the campus community are able to participate without being subjected to discrimination on the basis of sex, sexual orientation, or gender identity. Where Mount St. Mary’s University learns that any such discrimination occurs, Mount St. Mary’s University is committed toremedying the discrimination and its effects.

II. Statement of Policy Against Title IX Sexual Harassment

In compliance with Title IX, a federal law, Mount St. Mary’s University does not discriminate on the basis of sex in the education programs or activities that it operates. Title IX of the Education Amendments of 1972 (20 U.S.C. §1681, et seq.) and its implementing regulations (34 C.F.R. Part 106) prohibit discrimination on the basis of sex in education programs and activities.

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any Education Program or Activity receiving Federal financial assistance.

Title IX requires that colleges and universities maintain an environment free from sex discrimination for all faculty, staff, and students. Under Title IX, discrimination on the basis of sex includes Title IX Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, and
Stalking. Sexual harassment is also prohibited by Title VII of the Civil Rights Act of 1964 and by the state law.
Inquiries about the application of Title IX and its regulations may be referred to:

**Gregory Kuester, J.D.**
Title: Title IX Coordinator
McGowan Student Center
301-401-6455
g.f.kuester@msmary.edu
https://msmary.edu/title-ix-sexual-misconduct-policy.html

**Levi Esses**
Title: Dean of Students
Deputy Title IX Coordinator
McGowan Student Center
301-447-5475
l.k.esses@msmary.edu

**Kristin Hurley:**
Title: Executive Director of Human Resources
Deputy Title IX Coordinator
Main Floor, Bradley Hall
301-447-5522
k.hurley@msmary.edu

**John D. Love, Ph.D.**
Title: Associate Professor of Systematic and Moral Theology-Seminary
Deputy Title IX Coordinator
Seminary-Keating Hall, Room 002
301-447-8323
jlove@msmary.edu

**Justine Miller:**
Title: Associate Athletic Director for Student Athlete Support/SWA
Deputy Title IX Coordinator
Knott Athletic Recreation Convocation Center
301-447-6782
Justine_miller@msmary.edu

**OR**

Assistant Secretary for Civil Rights
U.S. Department of Education, Office for Civil Rights
ocr@ed.gov
III. Scope of this Policy

This Policy on Title IX Sexual Harassment Discrimination (Policy) applies to all Employees (faculty, staff, all other non-student employees), and all students. This Policy addresses only Title IX Sexual Harassment, as defined in this Policy. Allegations of discrimination based upon other protected traits and allegations of sex discrimination that do not fit within this Policy’s definition of Title IX Sexual Harassment will be addressed under other Mount St. Mary’s University policies, including other applicable discrimination policies and procedures, as contained in the Code of Student Conduct and Governing Documents.

Title IX Sexual Harassment is defined as conduct:
1. On the basis of sex,
2. That occurs within Mount St. Mary’s University’s Education Program or Activity,
3. Within the United States, and
4. Involves
   (a) a Mount St. Mary’s University Employee conditioning the provision of an aid, benefit, or service on an individual’s participation in unwelcome sexual conduct;
   (b) unwelcome conduct that is determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to Mount St. Mary’s University’s Education Program or Activity;
   (c) Sexual Assault;
   (d) Dating Violence;
   (e) Domestic Violence; or
   (f) Stalking.

All allegations of Title IX Sexual Harassment will be addressed according to this Policy.

Mount St. Mary’s University may take action against third Parties who engage in conduct prohibited by this Policy in connection with a Mount St. Mary’s University Education Program or Activity. In such circumstances, Mount St. Mary’s University will determine whether to apply this Policy or another policy or procedure.

This Policy applies when any Employee of the University is alleged to have engaged in Title IX Sexual Harassment as defined by this Policy. To the extent this Policy is inconsistent with any provisions of any faculty or Employee handbook, policy, or procedure, because this Policy on Title IX Sexual Harassment is mandated by federal law, this Policy shall prevail. Federal law requires Mount St. Mary’s University to use the same Standard of Evidence in all matters alleging Title IX Sexual Harassment, which, therefore, fall within this Policy. Mount St. Mary’s University has no discretion to do otherwise.

All Employees who have experienced Title IX Sexual Harassment, who have provided a Report alleging Title IX Sexual Harassment, or have been alleged to have engaged in Title IX Sexual Harassment can seek confidential assistance through the Employee Assistance Program:
IV. Defined Terms

This Policy uses many defined terms, indicated by the capitalization of the first letter(s) in the term. All defined terms are included in a Glossary at the end of the Policy. The definitions in the Glossary are important to a complete understanding of this Policy.

V. Responsibilities of the Title IX Coordinator and Deputy Title IX Coordinator

The Title IX Coordinator coordinates Mount St. Mary’s University’s efforts to comply with Title IX, including overseeing this Policy and the publication and dissemination of information required by Title IX. The Title IX Coordinator’s responsibilities include: (1) receiving and responding to Reports of conduct that may constitute a violation of this Policy; (2) coordinating the effective implementation of Supportive Measures; (3) designating Investigators, Facilitators, and Decision-makers to act pursuant to the Grievance Process; (4) ensuring that the technology needed to conduct and record hearings is available; (5) implementing effectively any Remedies or discipline imposed by a Decision-maker upon a finding of a violation of this Policy; and, (6) complying with the record-keeping requirements of this Policy.

The Deputy Title IX Coordinator supports the Title IX Coordinator in fulfilling their role and responsibilities and may serve as the Title IX Coordinator’s designee to carry out any response, action, initiative, project, or other responsibility outlined in this Policy. An individual requiring emergency support should call 911 or the Department of Public Safety at Ext 5911. An individual requiring support should reach out to the campus or community resources provided on the first page of this Policy.

VI. Reports of Potential Violations of this Policy

Mount St. Mary’s University strongly encourages anyone who has information about a potential violation of this Policy to provide a Report to the Title Coordinator or another Campus Official. Any person may provide a Report of a potential violation to the Title IX Coordinator in person, by mail, by telephone or by electronic mail. Reports by mail, telephone or electronic mail made be made at any time, including outside of regular business hours.

A Report does not constitute a Formal Complaint. The procedure for filing a Formal Complaint is described in this Policy.

Any Campus Official who receives information or who otherwise has information about a potential violation of this Policy is required to provide the information received, in full, to the Title IX Coordinator.

VII. Reporting to Law Enforcement, Seeking Treatment, Civil Remedies

A Complainant has the right to file criminal charges with an appropriate law enforcement agency. At the request of a Complainant, the University’s Department of Public Safety and/or a Title IX Coordinator will promptly assist the Complainant 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 Complainant 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 Health 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 Health Hospital and Washington County Hospital. Gettysburg Hospital is able to collect forensic evidence of a sexual assault. The University offers counseling to any Complainant or any other student through its Counseling Center. Other counseling and supports are available from the Resources notes at the start of the policy.

**Civil Remedies**

Individuals experiencing harassment or discrimination have the right to file a complaint with the United States 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

**VIII. Response to Potential Violations of this Policy**

When the Title IX Coordinator or a Campus Official receives a Report, Mount St. Mary’s University will respond by: (A) equitably offering Supportive Measures to the Complainant and Respondent, whether or not a Formal Complaint is filed; and (B) imposing disciplinary sanctions or other actions that are not Supportive Measures upon the Respondent only when the Respondent is found responsible for a violation of this Policy through a completed Grievance Process. Notwithstanding the foregoing, Mount St. Mary’s University may impose an emergency removal or administrative leave as provided in this Policy.
IX. Initial Assessment

A. Purpose

When the Title IX Coordinator receives a Report of alleged Title IX Sexual Harassment or a Formal Complaint alleging Title IX Sexual Harassment, the Title IX Coordinator will seek to gather information to undertake an initial assessment of any risk of harm to individuals or to the campus community and the description of the alleged misconduct in order to evaluate the appropriate response.

B. Addressing Risk of Harm

The Title IX Coordinator will take any action necessary to address any risk of harm identified by the Title IX Coordinator, including implementation of Supportive Measures, initiation of actions designed to protect the larger campus community, or Emergency Removal of a Respondent. A decision to remove a Respondent from campus pending the Grievance Process will follow the Emergency Removal of a Respondent process described in this Policy. At the Title IX Coordinator’s discretion, one or more other Campus Officials may be included in the initial assessment or in evaluating information gathered in the initial assessment.

C. First Step in the Assessment

The first step of the assessment is a discussion between the Title IX Coordinator and the Complainant. The purposes of the discussion are to:

- assess the nature and circumstances of the allegations;
- address the immediate physical safety and emotional well-being of the Complainant;
- notify the Complainant of the right to contact law enforcement (or not) and seek medical treatment;
- provide the Complainant with information about on- and off-campus resources;
- discuss the range and implementation of Supportive Measures;
- enter the Report into Mount St. Mary’s University’s daily crime log;
- assess the Reported conduct for the need for a timely warning under the Clery Act; and,
- explain the University’s policy prohibiting retaliation.

D. Determination After Initial Assessment

After the initial assessment of the information gathered, the Title IX Coordinator will take one of the following steps regarding the Grievance Process:
1. Initiate the Grievance Process

If the Title IX Coordinator determines that the alleged misconduct falls within this Policy and a Formal Complaint has already been submitted, the Title IX Coordinator will proceed to initiate the Grievance Process, unless the Formal Complaint proceeds to Informal Resolution.

If a Formal Complaint has not yet been submitted, the Title IX Coordinator will advise the Complainant that a Formal Complaint is required to initiate an investigation. The Title IX Coordinator will provide the Complainant a Formal Complaint form (or link to a website where the form is available) for the Complainant’s completion and signature. Once a signed Formal Complaint is submitted, the Title IX Coordinator will proceed to initiate the Grievance Process, unless the Formal Complaint proceeds to Informal Resolution.

If the Complainant determines not to file a Formal Complaint, and the Title IX Coordinator determines, in their discretion, that the allegations must be investigated, the Title IX Coordinator may initiate the Grievance Process by completing and signing a Formal Complaint.

2. Refer for Action Pursuant to Different Policy

With or without a Formal Complaint, when the initial assessment concludes with a determination that the alleged misconduct does not fall within the scope of this Policy but involves conduct that, if found to have occurred, violates another Mount St. Mary’s University policy, the matter will be referred for further action under the applicable policy. The determination regarding next steps will be communicated to the Parties in writing.

If a Formal Complaint has been filed, the Title IX Coordinator shall follow the procedures for Dismissal of a Formal Complaint set forth in Grievance Process.

E. 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.
X. **Supportive Measures**

Promptly after receipt of a Report, the Title IX Coordinator will contact the Complainant and Respondent (if identified or identifiable based upon the Report) to discuss the availability of Supportive Measures. Supportive Measures are available with or without the filing of a Formal Complaint. In determining the Supportive Measures to be provided, the Title IX Coordinator will make an individualized determination, considering Complainant’s wishes and other relevant factors, of the non-disciplinary, non-punitive measures that will be provided to the Complainant and Respondent to restore or preserve equal access to Mount St. Mary’s University’s Education Programs or Activities, to protect the safety of the Parties, and/or to deter Title IX Sexual Harassment.

All Supportive Measures will be provided without fee or charge and without unreasonably burdening the other Party. Supportive Measures will be maintained as confidential by Mount St. Mary’s University to the extent that confidentiality will not impair the ability to provide the Supportive Measures.

Examples of Supportive Measures that may be implemented by Mount St. Mary’s University include:

- Academic extensions or adjustments
- Campus escort services
- Changes in housing
- Counseling
- Increased security or monitoring of certain areas of the campus
- Changes in work schedules or locations
- Modifications of class or activity schedules
- Mutual restrictions on contact between the Parties

XI. **Emergency Removal of a Respondent**

Mount St. Mary’s University may implement emergency removal of a Respondent, whether or not a Formal Complaint has been submitted if there is an immediate threat to the physical health or safety of any student or other individual that arises from allegations of conduct that could constitute a violation of this Policy.

Prior to implementing an emergency removal, Mount St. Mary’s University will first gather information to undertake an individualized safety and risk analysis. The analysis will be conducted by an individual who is free from bias or conflict of interest, who has relevant knowledge and experience, and who will not be involved in any later Grievance Process related to the student who is being evaluated for potential removal.

**A. Factors to be Considered**

The analysis of whether an immediate threat to the physical health and safety risk exists will focus on the specific Respondent and consider the specific circumstances arising from the allegations of Title IX Sexual Harassment that potentially pose an immediate threat to a person’s physical health or safety. If a person expresses a subjective fear, Mount St. Mary’s University will consider it and will also apply an objective reasonable person standard.
St. Mary’s University will consider the Respondent’s propensity, opportunity, and ability to carry out a stated or potential threat. The analysis will evaluate whether Supportive Measures or other less restrictive means can negate or sufficiently minimize the threat. As part of its analysis, Mount St. Mary’s University may rely on objective evidence and current medical knowledge and may consult with a licensed evaluator to analyze the information gathered. Mount St. Mary’s University shall also consider Respondent’s rights, if any, under applicable federal and/or state disability laws.

The relationship between a threat and the physical health or physical safety of any student or other individual will also be carefully evaluated. In some but not all cases, threatening speech or virtual interactions without an associated action may rise to the level of a threat to physical health or physical safety. If the threat posed is in the nature of potential emotional impact only, Mount St. Mary’s University will instead focus on identifying appropriate Supportive Measures.

Mount St. Mary’s University will also closely examine whether the threat arises from allegations of conduct that could constitute Title IX Sexual Harassment under this Policy. As an example, an immediate threat to physical safety is likely present when a Respondent threatens physical violence against the Complainant in response to the Complainant’s allegations of verbal harassment by the Respondent. Threats of self-harm will be addressed under other applicable policies. If the individualized safety and risk analysis results in a determination that a Respondent’s actions pose an immediate and identified threat, but do not arise from allegations of Title IX Sexual Harassment, Mount St. Mary’s University will respond pursuant to other applicable policies and/or procedures.

The University’s assessment of the appropriateness of emergency removal will account for its multiple potential impacts, including: whether providing Supportive Measures will be sufficient to ensure equal educational access; the adverse impacts of separating a Respondent from educational opportunities and benefits; the protection of the health and safety of Mount St. Mary’s University’s community; and, the anticipated timeline of an investigation and hearing. Because these evaluations are necessarily fact specific, in some cases Mount St. Mary’s University may determine that restricting a Respondent’s participation in specific programs or activities will adequately address the situation.

**B. Emergency Removal is Not Discipline nor a Determination of Responsibility**

At all stages of the process, Mount St. Mary’s University will ensure that an emergency removal will not impose a premature sanction on the Respondent or circumvent the Grievance Process. An emergency removal does not equate to a determination that a Respondent has engaged in a violation of this Policy and will not result in a presumption of responsibility in any subsequent Grievance Process.

**C. Notice of Emergency Removal and Appeal**

In the event Mount St. Mary’s University determines that emergency removal of a Respondent is appropriate, the Respondent will be notified immediately in writing. The written notice will include details about the specifically identified emergency threat of physical safety or harm underlying the decision, as well as information about the Respondent’s immediate opportunity to challenge the removal decision by filing an Appeal.
XII. Placement of Employee on Administrative Leave

In the event a Formal Complaint alleges conduct that could constitute Title IX Sexual Harassment Discrimination and identifies an Employee as Respondent, Mount St. Mary’s University may decide to place the Respondent on administrative leave, in emergency and non-emergency situations. The purpose of such an administrative leave is to allow a temporary separation of the Employee while the Grievance Process is ongoing. Mount St. Mary’s University will determine the terms and conditions of the leave on a case-by-case basis. The decision process for placing an Employee-Respondent on leave will respect their rights under Title VII, Americans with Disabilities Act, and all other applicable employment laws.

XIII. Grievance Process for Formal Complaints

A. Overview

All entitlements established in this section apply equally to the Parties. The Grievance Process applies when a Formal Complaint is signed and submitted, whether by a Complainant or by the Title IX Coordinator on behalf of Mount St. Mary’s University. This process is grounded in a presumption that a Respondent is not responsible unless and until a Determination of Responsibility at the conclusion of this process. The standard of review for determinations regarding responsibility is a PREPONDERANCE OF EVIDENCE standard. The preponderance of evidence standard of proof is met when the evidence shows that it is more likely than not that an allegation is true.

B. Filing of Formal Complaint

The Grievance Process begins with the filing of a Formal Complaint which alleges that a Respondent has engaged in Title IX Sexual Harassment, is signed by the Complainant or the Title IX Coordinator, and requests that Mount St. Mary’s University investigate the allegation of Title IX Sexual Harassment. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail.

C. Dismissal or Withdrawal of Formal Complaint

If, at any time during the Grievance Process, the Title IX Coordinator determines that the alleged misconduct does not fall within this Policy because the conduct did not occur within Mount St. Mary’s University’s Education Program or Activity, or the conduct did not occur within the United States, the Title IX Coordinator will dismiss the Formal Complaint by issuing a Notice of Dismissal.

If, at any time during the Grievance Process, the respondent is no longer enrolled or employed by Mount St. Mary’s University or the Title IX Coordinator determines that specific circumstances prevent Mount St. Mary’s University from gathering evidence sufficient to reach a determination of the allegations of the Formal Complaint, Mount St. Mary’s University may dismiss the Formal Complaint by issuing a Notice of Dismissal.

The Notice of Dismissal, which will be issued to the Complainant within five (5) Business Days of the Title IX Coordinator’s determination, will include the reasons for the dismissal. A dismissal of a Formal Complaint from the Grievance Process shall not prevent Mount St. Mary’s
University from addressing the allegations in the Formal Complaint under another applicable policy of Mount St. Mary’s University. Any Party has the right to submit an Appeal from dismissal of a Formal Complaint.

If, at any time during the Grievance Process, the Complainant notifies the Title IX Coordinator in writing that they wish to withdraw the Formal Complaint or any allegations in the Formal Complaint, the Title IX Coordinator may dismiss the Formal Complaint. Alternatively, the Title IX Coordinator may decide that proceeding with the Grievance Process is necessary. In making that determination, the Title IX Coordinator must weigh the Complainant’s wishes and the University’s obligations to eliminate Title IX Sexual Harassment, prevent its recurrence, and remedy its effects.

D. Length of Process

Mount St. Mary’s University seeks to resolve all Reports of Title IX Sexual Harassment promptly, thoroughly, fairly, and equitably. The timeframes which Mount St. Mary’s University strives to meet are set forth in this Policy. Mount St. Mary’s University will inform the Parties regularly of the status of the Grievance Process, including the status of the investigation and other steps in the process. Circumstances may arise that require the extension of anticipated time frames. Such circumstances may include the complexity of the allegations, the number of Witnesses involved, the availability of the Parties, Witnesses, or others involved, the effect of a concurrent criminal investigation, breaks or other closures of campus, concurrent law enforcement activity, the need for language assistance or accommodation of disabilities, or unforeseen circumstances. In the event timelines are modified, Mount St. Mary’s University will provide written notification to the Parties.

E. Privacy of Process

Mount St. Mary’s University will keep confidential the identity of any individual who has made a Report or Formal Complaint, and the identity of any Complainant, Respondent, and Witness except as permitted by FERPA, required by law, or as necessary for the Institution to take action under this Policy.

F. Participation in Grievance Process is Voluntary

Parties and Witnesses are not required to participate in the Grievance Process, but without their live testimony at the hearing, the Hearing Board cannot rely upon their Statements. Mount St. Mary’s University may not threaten, coerce, or intimidate a Party or Witness into participating, nor may Mount St. Mary’s University retaliate against a Party or Witness for declining to participate in any part of the Grievance Process.

G. Right to an Advisor

Each Party has the right to choose an Advisor to assist and advise them (at the Party’s own expense, if the Advisor is paid). Each Party has the right to be accompanied by their Advisor throughout the Grievance Process, including during all related meetings and hearings. Parties are encouraged to identify an Advisor as soon as practical, as Advisors play an important role in supporting Parties. Each Party must notify the Title IX Coordinator promptly of the name, title,
and contact information for their Advisor and any change in their Advisor. If a Party does not select an Advisor and the matter proceeds to a Live Hearing, an Advisor will be appointed by Mount St. Mary’s University, at no fee to the Party, to ask Cross-examination Questions on that Party’s behalf.

H. Assistance in Securing an Advisor

In accordance with Maryland law, in cases where a formal Title IX investigation is initiated to determine if a sexual assault occurred, students can access an attorney and have reasonable attorney costs and fees reimbursed by the Maryland Higher Education Commission (MHEC) Legal Representation Fund for Title IX proceedings. Student parties can obtain a list of licensed attorneys who will assist parties on a pro bono or reduced fee basis by contacting MHEC at (800) 947-0203 or visiting the website https://mhec.maryland.gov/Pages/Title-IX-Campus-Sexual-Assault-Proceedings---Attorney-List.aspx.

For representation, Respondents may wish to contact organizations such as:

- FACE (http://www.facecampusequality.org)
- SAVE (http://www.saveservices.org).

Complainants may wish to contact organizations such as:

- The Victim Rights Law Center (http://www.victimrights.org),
- The Time’s Up Legal Defense Fund: https://nwlc.org/times-up-legal-defense-fund/.

I. Request to Remove an Investigator, Hearing Board Member, or Title IX Coordinator

Parties have the right to request that the Title IX Coordinator remove an Investigator or member of the Hearing Board based on reasonable and articulated grounds of bias, conflict of interest or an inability to be fair and impartial.

1. Challenge to an Investigator

A challenge to an Investigator must be raised in writing within five (5) Business Days of receipt of the Notice of Investigation. The Title IX Coordinator will determine whether to remove the Investigator. If the Investigator is not removed, the Title IX Coordinator will notify the requesting Party of the decision. If an Investigator is removed and replaced, the Title IX Coordinator will send written notification to the Parties of the name of the new Investigator.

2. Request to Remove a Hearing Board Member

Following receipt of the Notice of Live Hearing, Parties have the right to request that the Title IX Coordinator remove a member of the Hearing Board based on reasonable and articulated grounds of bias, conflict of interest, or an inability to be fair and impartial. This request must be raised in writing within two (2) Business Days of receipt of the Notice of Live Hearing. The Title IX Coordinator will determine whether to remove the Hearing Board member. If the Hearing Board member is not removed, the Title IX Coordinator will notify the requesting Party of the
decision. If a Hearing Board member is removed and replaced, the Title IX Coordinator will send written notification to the Parties of the name of the new Hearing Board member.

3. Request to Remove the Title IX Coordinator

A Party may request that someone other than the Title IX Coordinator oversee the Grievance Process based on reasonable and articulated grounds of bias, conflict of interest, or an inability to be fair and impartial. Any such request must be submitted in writing to the person to whom the Title IX Coordinator reports, which is the President, as soon as a Party becomes aware of any such grounds for removal. The President will determine whether to designate another person to perform the Title IX Coordinator’s duties for the specific matter, and if necessary, will identify the person to undertake those duties.

J. Procedures Following a Formal Complaint

1. Initiate an Investigation

The Title IX Coordinator will initiate an investigation, unless the Formal Complaint is proceeding through the Informal Resolution Process. The Title IX Coordinator will issue a Notice of Investigation to known Parties sufficiently in advance of any request to meet with the Investigator. This Notice of Investigation will include:

   a. Notice of these grievance procedures, including the Informal Resolution process, and a copy of this Policy.

   b. The conduct alleged to violate this Policy, and the date and location of the alleged incident, if known.

   c. Known Parties involved in the alleged incident

   d. A statement that the Respondent is presumed not responsible for the alleged misconduct and that a Determination of Responsibility will be made at the conclusion of the process.

   e. Notice of the Parties’ right to an Advisor of choice, who will be permitted to accompany them to investigation meetings, interviews, and any hearing and to review materials provided to their advisee throughout the process.

   f. Notice of and citation to Mount St. Mary’s University’s prohibition on knowingly making false Statements or submitting false information during a Mount St. Mary’s University process.

If during the course of an investigation, new or additional allegations arise that require investigation, Mount St. Mary’s University will send the Parties an updated Notice of Investigation revising the scope of the investigation.
2. Option of Informal Resolution

Informal Resolution will not be used unless the Complainant requests it and the Respondent and the University agree to it. Informal Resolution will not be used if the alleged conduct involves sexual assault or sexual coercion.

If Informal Resolution Process goes forward, the Title IX Coordinator may refrain from initiating the Grievance Process or may pause an ongoing Grievance Process.

3. Concurrent Law Enforcement Activity

When Mount St. Mary’s University receives a Report of Title IX Sexual Harassment to which it has determined it must respond through its Grievance Process, Mount St. Mary’s University’s process continues regardless of whether a Complainant has made or decides to make a report to law enforcement. The filing of a report with law enforcement, or an ongoing law enforcement investigation or proceeding does not relieve Mount St. Mary’s University of its obligation to address the Complaint through its Grievance Process. At the University’s discretion, Mount St. Mary’s University may temporarily pause its investigation at the request of law enforcement. In that circumstance, the Title IX Coordinator will send written notice to the Parties explaining the reason for pausing the investigation.

K. Consolidation of Certain Formal Complaints

If there are multiple Complainants and one Respondent, Mount St. Mary’s University may consolidate Formal Complaints where the allegations of Title IX Sexual Harassment arise out of the same facts or circumstances. All Parties will be notified in writing of a decision to consolidate Formal Complaints.

L. Investigation

Mount St. Mary’s University’s investigation process is designed to allow for the thorough, impartial, and reliable gathering of information and to result in a comprehensive investigation report summarizing relevant, admissible evidence. Mount St. Mary’s University strives to complete its investigation within thirty (30) Business Days, understanding that numerous issues arise during investigations that may justify a good cause extension of the timeline.

1. Assignment of Investigator

The Title IX Coordinator will supervise the investigation, starting with determining who will serve as Investigator. The Investigator may be a Mount St. Mary’s University Employee or Employees, an external Investigator or Investigators, or a team of Investigators that pairs an external Investigator with a Mount St. Mary’s University Employee. All Investigators will conduct the investigation with a presumption that the Respondent is not responsible and will act without bias or conflict of interest.

2. Process Overview

The Investigator will conduct the investigation in a manner appropriate in light of the circumstances of the case, which will typically include interviews with the Complainant, the
Respondent, and any Witnesses. The Investigator will provide advance written notice to Parties of the date, time, location, participants, and purpose of any requested meeting(s). Investigation interviews will be conducted in a thorough, impartial, and fair manner; all involved individuals will be treated with appropriate sensitivity and respect.

Interviews will be supplemented by the gathering of any physical, documentary, and other evidence, as appropriate and available. The burden of gathering relevant, admissible information sufficient for Mount St. Mary’s University to reach a determination of whether a violation of this Policy has occurred rests on the University. The Parties will have an equal opportunity to submit evidence and suggest Witnesses (including fact and expert Witnesses).

The Investigator will decide which individuals to interview based on the information the Investigator gathers as part of the investigation and, with respect to Witnesses offered by a Party, the Investigator may ask the Witnesses to describe the information the Party expects the Witness to provide. The Title IX Coordinator may direct that additional interviews be conducted.

The Investigator will not ask questions or gather information or documents protected by a legally recognized privilege, including treatment records of a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in a professional capacity, without written consent to use such documents in the Grievance Process from the person protected by the privilege. The Investigator will not seek information about a Complainant’s sexual predisposition and will only allow submission of or pursue information about a Complainant’s prior sexual behavior if such questions and evidence: (1) are offered to prove that someone other than the Respondent committed the alleged misconduct; or, (2) concern specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to establish Consent.

The investigation will be conducted in a manner that is respectful of individual privacy concerns. To be clear, however, confidentiality cannot be promised during an investigation because, for example, the Investigator may need to speak with Witnesses and others to gather evidence. The Parties are not restricted from discussing the allegations under investigation or from gathering and presenting relevant evidence. However, where the investigation reveals intentional efforts by a Party to fabricate or alter information they submit or to influence the information a Witness provides to the Investigator, conduct charges may result.

3. Parties’ Review of and Response to Information Gathered as Part of Investigation

At the conclusion of the investigation, the Investigator will assemble all inculpatory and exculpatory information gathered during the investigation that is directly related to the allegations of the Formal Complaint, including information upon which Mount St. Mary’s University does not intend to rely in reaching a determination regarding responsibility. The Investigator will redact information that is unrelated to the allegations of the Formal Complaint or otherwise not admissible in the Grievance Process (i.e., because it is subject to an unwaived legally recognized privilege or constitutes prior sexual history not offered to establish Consent.
or that Respondent did not engage in the alleged misconduct). The Investigator will create a list describing information it has redacted or removed as irrelevant, inadmissible, or not directly related to the allegations of the Formal Complaint, which it may allow the Parties to inspect.

The assembled information will then be shared with the Parties and their Advisors in hard copy or an electronic format. Depending on the nature of the information shared, Mount St. Mary’s University may require Parties and their Advisors to agree to restrictions or sign a non-disclosure agreement prohibiting dissemination of any of the information provided for inspection and review or use of such evidence for any purpose unrelated to this Grievance Process. The Parties will have at least ten (10) Business Days to review the assembled information and submit a written response to it.

The Investigator will review the Parties’ responses to evaluate whether further investigation may be required to ensure the investigation is thorough and complete. In consultation with the Title IX Coordinator, the Investigator will determine any further action indicated by the Parties’ responses and develop a plan to complete the investigation.

4. Investigation Report

After considering the Parties’ responses and conducting any additional investigation indicated by those responses, the Investigator will prepare a report summarizing all of the relevant, admissible information obtained during the investigation, including Inculpatory Evidence and Exculpatory Evidence. The Investigator will incorporate the Parties’ responses to the report, as well as an explanation of any additional steps taken after receipt of Party responses and include any related materials. All of these written submissions and all information gathered during the investigation will collectively be considered the investigation report.

To the extent that the investigation report includes an assessment of Party and Witness Credibility, Credibility determinations may not be based upon a person’s status as a Complainant, Respondent or Witness.

5. Parties’ Review of and Response to Investigation Report

When the investigation report is complete, Mount St. Mary’s University will provide a copy of it to the Parties and their Advisors in electronic format or hard copy for their review and written response. The Parties shall have five (5) Business Days to respond to the investigation report.

The investigation report and all evidence will be available at any hearing to give each party equal opportunity to refer to the evidence. Any hearing on the allegations investigated will not be held sooner than ten (10) Business Days after the investigation report is provided to the Parties and their Advisors.

M. Determination After Investigation

At the conclusion of the investigation, the Title IX Coordinator will review the investigation report to determine whether the conduct, if proved, falls within this Policy. When the alleged conduct, if proved, falls within this Policy, the Title IX Coordinator will prepare a Notice of Charge based on information contained in the investigation report.
If the conduct, even if proved, does not fall within this Policy because it would not constitute Title IX Sexual Harassment, because it did not occur within Mount St. Mary’s University’s Education Program or Activity, or because it did not occur within the United States, Mount St. Mary’s University must dismiss the Formal Complaint. Mount St. Mary’s University may dismiss a Formal Complaint if the Title IX Coordinator determines: that there is not sufficient cause to believe the alleged conduct may have occurred; the Respondent is no longer enrolled or employed by Mount St. Mary’s University; or specific circumstances prevent Mount St. Mary’s University from gathering sufficient evidence to reach a Determination of Responsibility or No Responsibility.

In either instance, the Title IX Coordinator will issue a Notice of Dismissal, including the reasons for the dismissal, to the Parties simultaneously within five (5) Business Days of the Title IX Coordinator’s determination. If the alleged conduct would potentially violate a different Mount St. Mary’s University Policy, the Notice of Dismissal will direct the Parties to that policy. The Parties have a right to submit an Appeal from a dismissal of a Formal Complaint.

**N. Notice of Charge**

If the Formal Complaint is not dismissed, the Title IX Coordinator will issue a Notice of Charge simultaneously to the Parties. The Notice of Charge shall not issue before the Parties have had five (5) Business Days to review and respond to the investigation report and will be sent to the Parties within ten (10) Business Days of the conclusion of the investigation. The hearing shall not be scheduled sooner than ten (10) Business Days after the Notice of Charge is issued. The Notice of Charge will include the following information:

- a brief factual summary of the conduct alleged to have violated the Policy, including date, time, and location;
- the specific Policy provision(s) at issue; and
- possible sanctions associated with a finding of responsibility for the alleged Policy violation(s).

The Notice of Charge will attach a copy of this Policy or include the website where this Policy is available.

**XIV. Live Hearings**

Following the issuance of the Notice of Charge, if Informal Resolution is not being conducted, the Grievance Process proceeds to a Live Hearing.

**A. Notice of Live Hearing**

The Notice of Live Hearing will be sent to the Parties simultaneously within ten (10) Business Days of the delivery of the Notice of Charge and at least five (5) Business Days before the scheduled hearing date. The Notice of Live Hearing may be, but need not be, sent with the Notice of Charge. The Notice of Live Hearing will include the following information:

- the date, time, and location of the Live Hearing;
• whether the Live Hearing will be recorded via an audio recording, an audiovisual recording, or a transcript;
• the composition of the Hearing Board designated by the Title IX Coordinator; and,
• a statement that there is a presumption of No Responsibility on the part of the Respondent until a determination regarding responsibility is made at the conclusion of the Grievance Process.

In addition, the Notice of Charge will attach a copy of this Policy or include a reference to the website where this Policy is published.

B. Title IX Coordinator as Hearing Board Chair

Hearings are convened by the Title IX Coordinator. The Title IX Coordinator oversees all hearings. In rare circumstances when the Title IX Coordinator is unavailable or ineligible to do so, the Title IX Coordinator will designate the person to convene and oversee the Hearing Board process. The Title IX Coordinator will be the non-voting chair of the Hearing Board during Live Hearings, serving as a process and policy advisor to the Hearing Board. In this role, the Title IX Coordinator may be referred to as the Hearing Officer.

The Title IX Coordinator is never a Decision-maker, whether in connection with a Live Hearing or an Appeal but may be an Investigator.

C. Hearing Board

Prior to the Live Hearing, the Hearing Board will have read all of the information in the investigation report. The Parties will have the same information as the Hearing Board.

1. Gathering Information

The Hearing Board will focus its questions on those areas where it needs clarification or more information. The Hearing Board will not necessarily need the Parties or Witnesses to repeat everything they shared during the investigation, but as the Decision-maker(s), the Hearing Board is obligated to come to its own Findings of Fact.

The Hearing Board has the right and responsibility to ask questions and elicit information from Parties and Witnesses on the Hearing Board’s own initiative to aid the Hearing Board in obtaining relevant information, both inculpatory and exculpatory.

Only members of the Hearing Board may ask questions of any person testifying, except in connection with Cross-examination Questions asked by Advisors. The Hearing Board is responsible for ensuring that it has sought and probed all information necessary to make an informed decision. At times, the Hearing Board will need to ask difficult or sensitive questions in order to understand the allegations and related information and to gain a full understanding of the context. If at any time a Party does not understand a question or why the Hearing Board is asking a question, the Party should let the Hearing Board know. The Hearing Board will explain and modify its question at its discretion.
The Parties have equal rights to present information in front of the Hearing Board, which ensures that the Hearing Board has the benefit of each Party’s perspectives about the evidence. This right includes calling Witnesses. Parties have no right to self-representation and may not ask questions directly of the other Party or Witnesses.

2. Evaluating Information

The Hearing Board must objectively evaluate all admissible, relevant evidence for weight or Credibility, including both Inculpatory Evidence and Exculpatory Evidence. The Hearing Board must focus on evidence pertinent to proving whether facts material to the allegations under investigation are more or less likely to be true. Credibility determinations may not be based upon a person’s status as a Complainant, Respondent or Witness. Determinations of Credibility must be based on objective evaluation of relevant evidence, not on inferences based on Party or Witness status. Credibility determinations are based on a number of factors, including demeanor (but never only demeanor); opportunity and capacity to observe the event; contradiction or consistency with other evidence; availability of corroboration (where it should logically exist, noting that corroborating evidence is not required); level of detail in Statement or testimony; motive to be untruthful; and inherent plausibility or implausibility.\(^1\) The evaluation of Credibility also takes into account the normal fallibility of human memory.

A Party’s answers to Cross-examination Questions will be evaluated by the Hearing Board in context, taking into account that a Party may experience stress while answering Cross-examination Questions. Parties will not be unfairly judged if they are unable to recount every specific detail in sequence, whether such inability is due to trauma, the effects of drugs or alcohol or simple fallibility of human memory.

D. Role and Obligations of Advisors During Hearings

1. The Advisor is present to provide support to the Party and not to serve as a proxy voice for the Party.

2. Advisors may not speak during the hearing process, except where permitted to present Cross-examination Questions. Therefore, in all instances other than Cross-examination Questions, Advisors may not speak to the Hearing Board, make statements or arguments, or answer questions.

3. Advisors conducting Cross-examination must be capable of understanding the purpose or scope of Cross-examination. Equal competency between the Parties’ Advisors is not required.

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4. When conducting Cross-examination, Advisors need not be advocates for Parties, but simply may be individuals who ask questions.

5. Advisors can confer quietly with their advisee as needed, but if there is a need for an extended discussion, the Party should ask for a break in the Live Hearing.

6. Advisors cannot direct the Party how to answer a question.

7. Advisors should conduct themselves quietly and professionally, must not disrupt the proceedings and must comply with any rules of decorum imposed by the Mount St. Mary’s University. An Advisor who does not do so may be removed from the Live Hearing. In that instance, the Party may select another Advisor or Mount St. Mary’s University will appoint a substitute Advisor.

E. Location of the Live Hearing

Live Hearings may be conducted with all Parties physically present in the same geographic location or, at Mount St. Mary’s University’s discretion, any or all Parties, Witnesses, and other participants may appear at the Live Hearing virtually, with the Parties being able to see and hear each other and Witnesses live.

At the request of either Party, Mount St. Mary’s University will provide for the entire Live Hearing (including Cross-examination) to occur with the Parties located in separate rooms with technology enabling the Parties to see and hear each other. Unlike Parties, Witnesses do not have the right to demand to testify in a separate room, but Mount St. Mary’s University, in its discretion, may permit any participant to appear remotely.

F. Recording of Live Hearing

Mount St. Mary’s University will create an audio or audiovisual recording or transcript of the entire Live Hearing. The recording or transcript will be available to the Parties for inspection and review.

G. Scope of the Live Hearing

The Live Hearing will relate solely to charges set forth in the Notice of Charges issued to the Parties. If the Parties or any Witnesses share information that goes beyond these charges, the Hearing Board will redirect the speaker to the charges at hand.

Parties may be accountable for additional violations discovered through the Grievance Process even if they do not appear in the Notice of Charge/Notice of Live Hearing. In this instance, a separate Grievance Process under this Policy, or under other applicable policies, may be commenced.

H. Attendance at the Hearing

The Live Hearing is closed, meaning it is not open to the public. Witnesses may be present only for their individual meeting with the Hearing Board. Advisors and Parties may be present throughout the proceeding. If a Party, after having been given notice, does not appear at the Live Hearing, the Live Hearing will be conducted in their absence, and the Party’s Advisor may
appear and conduct Cross-examination. In the event neither a Party nor their Advisor appear at the hearing, Mount St. Mary’s University will provide an Advisor to appear on behalf of the non-appearing Party.

I. Expectation of Honesty

Parties and other individuals who offer information at a Live Hearing are expected to respond honestly and to the best of their knowledge. The Hearing Board may recall any Party or Witness for further questions and to seek additional information as it deems necessary. A Party or Witness who intentionally provides false or misleading information may be subject to discipline under this Policy or other applicable policies.

J. Cross-examination Questions and Effect of Failure to Submit to Cross-examination

1. Advisors Conduct Cross-examination

Advisors are allowed, on behalf of the Party they are advising, to cross-examine the other Party and Witnesses by asking relevant questions and follow-up questions, including questions challenging Credibility.

2. Relevance Determination Before Answering

Before a Party or Witness answers a Cross-examination Question, the Hearing Board will determine if the question is relevant. If a question is deemed irrelevant, the Hearing Board will explain why. The requirement of Relevance applies throughout the hearing, including during Cross-examination, and will be determined by the Hearing Board. Parties should understand that the process of Cross-examination may be difficult and may feel uncomfortable because its purpose is to promote the perspective of the other Party. Cross-examination Questions may not be submitted in writing in advance of the Live Hearing or during the Live Hearing for purposes of seeking an evaluation of Relevance.

3. Effect of Not Submitting to Cross-examination

If a Party or Witness does not submit to Cross-examination by Advisors at the Live Hearing, the Hearing Board must not rely on any Statement of that Party or Witness in reaching a determination regarding responsibility. This rule does not apply if a Party or Witness refuses to answer questions posed by the Hearing Board.

   a. “Submit to Cross-examination” means answering those Cross-examination Questions that are relevant, as determined by the Hearing Board in real time during the Live Hearing. If a Party or Witness disagrees with the Hearing Board’s Relevance determination, they may either (a) abide by the Hearing Board’s determination and answer the question or (b) refuse to answer the question. In the event the Party or Witness refuses to answer the question, unless the Hearing Board reconsiders the Relevance determination, the Hearing Board cannot rely on any Statement of that Party or Witness.

   b. “Statement” has its ordinary meaning but does not include evidence (such as videos) that do not constitute a person’s intent to make factual assertions, or to
the extent that such evidence does not contain a person’s Statements. Thus, Documents and records that contain Statements may not be relied on in making a final determination after the completion of the hearing if the Party or Witness who made the Statements has not submitted to Cross-examination. Probing the Credibility and reliability of Statements contained in such documents requires the Parties to have the opportunity to cross-examine the individual(s) making the Statements.

c. Examples

- This rule applies to law enforcement reports, SANE reports, medical reports, and any other documents and records that contain the Statements of a Party or Witness who has not submitted to Cross-examination.

- If one Party to a text message or email exchange submits to Cross-examination and the other does not, only the messages of the individual who submits to Cross-examination may be considered.

- Where a Party refuses to answer Cross-examination Questions, but video evidence exists showing the underlying incident, the Hearing Board may still consider the available evidence and make a determination.

- If the matter does not depend upon a Party’s or Witness’s Statements, but on other evidence (e.g., video evidence that does not consist of “Statements” or to the extent the video contains non-Statement evidence), the Hearing Board can still consider this other evidence and reach a determination, but without drawing any inference based upon lack of Party or Witness testimony.

K. Breaks

The Hearing Board may need to take breaks during testimony to ensure that it can confer regarding the information that has been offered and can determine whether further questions are necessary. At any time, a Party may request a break to talk with their Advisor or for another reason. In almost all instances, a break will be allowed.

L. Rape Shield Protections

All questions and evidence about Complainant’s sexual predisposition or prior sexual behavior are irrelevant unless offered to prove that someone other than the Respondent committed the alleged misconduct or offered to prove Consent.

M. Order of the Live Hearing

1. The Chair will call the Live Hearing to order and will explain the hearing process, which will include a reading of the charge(s) at issue and will provide an opportunity for all Parties to ask procedural questions prior to opening statements.
2. The Parties shall be informed that the hearing is being recorded. The recording is the sole official verbatim record of the Live Hearing and is the property of the College.

3. The Complainant may present an opening statement related to the charges.

4. The Respondent may present an opening statement related to the charges.

5. The Hearing Board will ask the Complainant questions relevant to the charges.

6. The Respondent’s Advisor may ask Complainant relevant questions and follow-up questions, including those challenging Credibility (Cross-examination Questions).

7. The Hearing Board will ask the Respondent questions relevant to the charges.

8. The Complainant’s Advisor may ask Respondent relevant questions and follow up questions, including those challenging Credibility (Cross-examination Questions).

9. The Hearing Board may call Witnesses to provide relevant information to the Hearing Board.

10. At the conclusion of each Witness, Complainant and Respondent’s Advisors may ask each Witness relevant questions and follow up questions, including those challenging Credibility (Cross-examination Questions).

11. At the conclusion of the testimony of the Parties and the Witnesses, the Parties will be able to make a closing statement, with the Complainant going first and the Respondent going next.

12. The Chair will announce that the Live Hearing is concluded.

N. Hearing Board Deliberations and Written Determination

When the Live hearing concludes, the Hearing Board will deliberate and make its decision in accordance with the Preponderance of the Evidence Standard of Evidence. The Hearing Board will issue a Written Determination, which will be sent to the Parties simultaneously within fifteen (15) Business Days of the conclusion of the Live Hearing. The Written Determination will include:

a. Procedural History

b. Summary of allegations in Notice of Charge/Notice of Live Hearing

c. Policy provisions at issue

d. Findings of Fact related to each allegation potentially constituting Title IX Sexual Harassment, made by the applicable standard of evidence

e. Rationale (or evidentiary basis) for the Findings of Fact related to each allegation, which should include an evaluation of the weight or Credibility of admissible, relevant evidence
f. A determination of whether the conduct found to have occurred violates this Policy (Determination of Responsibility) or not (Determination of No Responsibility)

g. Rationale (or evidentiary basis) for the Determination of Responsibility or No Responsibility

h. A statement of any disciplinary sanctions imposed on the Respondent and the rationale for the sanctions

i. A statement of whether Remedies will be provided to the Complainant, using the phrase: “Remedies designed to restore or preserve equal access to Mount St. Mary’s University’s Education Program or Activity will be provided by Mount St. Mary’s University to the Complainant.” The nature of such Remedies will not appear in the Written Determination. Remedies that do not directly affect the Respondent will not be disclosed to the Respondent.

j. Information about how to file an Appeal and how to access the transcript or recording before the time to file an Appeal lapses.

The Title IX Coordinator is responsible for the effective implementation of any Sanctions or Remedies.

O. Sanctions

1. Possible Sanctions

The following sanctions and/or conditions may be imposed following a Determination of Responsibility for a violation of this Policy. The described range of sanctions is required by Federal law under Title IX and that the published range is purely for purposes of notice as to the possibility of a range of Remedies and disciplinary sanctions and does not reflect the probability that any particular outcome will occur.

a. Students

- Expulsion (permanent separation)
- Suspension
- Deferred suspension
- Disciplinary Probation
- Disciplinary probation with deferred removal from the residence halls
- Loss of housing contract
- Residence hall probation
- Conduct warning
- Title IX Sexual Harassment education or other relevant education
- Parent or guardian notification (subject to privacy restrictions)
- Financial restitution
- Fine
- Community restoration and/or community service
- Loss of campus privileges
- Loss of campus employment and/or opportunities for campus employment
- Withholding records or degree
- Revocation of admission and/or degree
- Bar against registration
- Discretionary action
- Substance abuse education and/or evaluation

b. Employees
- Termination of employment
- Revocation or denial of tenure
- Suspension
- Demotion
- Progressive discipline
- Warning
- Loss of pay or other pay adjustments
- Job transfer
- Change or restrictions in work location and/or job responsibilities
- Title IX Sexual Harassment education
- Restrictions on the Employee’s communications
- Limitations on the Employee’s movement in or on Mount St. Mary’s University’s campus, programs, and activities

2. Factors in Determining Sanctions

In considering the appropriate sanction within the recommended outcomes, the Hearing Board may consider the following factors:

- Respondent’s prior discipline history;
- how Mount St. Mary’s University has sanctioned similar incidents in the past;
- the nature of the conduct at issue, including whether there was violence;
- the impact of the conduct on the Complainant;
- the impact of the conduct on Mount St. Mary’s University’s community, its members or its property;
- whether the Respondent accepted responsibility;
- whether the Respondent is reasonably likely to engage in the conduct in the future;
- any other mitigating or aggravating circumstances, including Mount St. Mary’s University’s values and
the University’s obligation to eliminate Title IX Sexual Harassment, prevent its recurrence, remedy its effects, and to maintain an environment free from Title IX Sexual Harassment.

Respondent’s lack of comprehension that conduct constituting Title IX Sexual Harassment violates the bodily or emotional autonomy and dignity of a victim does not excuse the misconduct, though genuine lack of understanding may, in Mount St. Mary’s University’s discretion, factor into the sanction decision.

3. Remedial Action

The Hearing Board may consider other remedial actions that may be taken to address and resolve any incident of Title IX Sexual Harassment and to prevent its recurrence, including: strategies to protect the Complainant and any Witnesses from retaliation; provide counseling for the Complainant; other steps to address any impact on the Complainant, any Witnesses, and the broader campus community, and any other necessary steps reasonably calculated to prevent future occurrences of harassment.

4. Failure to Comply with Sanctions.

Failure to comply with the sanctions or conditions imposed by the Hearing Board will result in action under Mount St. Mary’s University’s Code of Student Conduct or Governing Documents, as applicable.

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

P. Effective Date of the Written Determination and Possible Notice to Parents

The Written Determination becomes final only after the time period to file an Appeal has expired or after the Appeal decision has been sent to the Parties. The Written Determination will identify to whom any Appeal must be addressed.

Mount St. Mary’s University reserves the right to notify parents of dependent students when student conduct has resulted in serious disciplinary sanctions.

XV. Appeals

A. Filing an Appeal

The Parties have equal rights to file an Appeal. Appeals will be submitted to the Title IX Coordinator. Appeals must be submitted within five (5) Business Days of the issuance of the Notice of Dismissal or Written Determination that the Party seeks to appeal.

B. Grounds for Appeal

An Appeal is not intended to be a rehearing of the information presented at the Live Hearing. An Appeal may only be based upon one or more of the following grounds:

1. Procedural Irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;

3. Conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter; and/or,

4. The sanction imposed is substantially disproportionate to policy violation.

C. Actions upon Receipt of Appeal

1. The Title IX Coordinator shall designate a Decision-maker (the “Appeal Decision-maker”) to consider and decide any Appeal.

2. Within five (5) Business Days of the receipt of the Appeal by the Title IX Coordinator, the Title IX Coordinator will give notice to the Parties of the appeal and of the identity of the Appeal Decision-maker.

3. The Parties will have two (2) Business Days after notice of receipt of the Appeal to request that the Title IX Coordinator remove the Appeal Decision-maker based on reasonable and articulated grounds of bias, conflict of interest or an inability to be fair and impartial. The Title IX Coordinator will determine whether to remove the Appeal Decision-maker. If the Appeal Decision-maker is not removed, the Title IX Coordinator will notify the requesting Party of the decision. If the Appeal Decision-maker is removed and replaced, the Parties will be sent simultaneous written notification of the name of the new Appeal Decision-maker.

4. When the time to request removal of the Appeal Decision-maker has run, the Appeal Decision-maker will be provided with the entire file provided to the Hearing Board, together with the Written Determination.

5. The Appeal Decision-maker will first determine whether the Appeal will be accepted, based upon whether one or more of the Appeal Grounds set forth above has been properly alleged by the Appellant. Within five (5) Business Days of the receipt of the Appeal, the Appeal Decision-maker will send written notice to the Parties simultaneously that either (a) the Appeal has been rejected due to insufficient grounds, with the Appeal Decision-maker’s rationale, or (b) the Appeal has been accepted.

6. The non-appealing Party/ies will be entitled to submit a response to the Appeal, which must be sent to the Title IX Coordinator within five (5) Business Days of receipt that the Appeal was accepted.

6. The Appeal Decision-maker will then analyze all of the materials related to the Appeal and will take one of the following actions:

   a. Uphold the original decision
b. Send the matter back to the Hearing Board for further consideration

c. Refer the matter to the Title IX Coordinator for further investigation or a new hearing with a new Hearing Board

7. The Appeal Decision-maker will issue its written decision on Appeal within ten (10) Business Days after the receipt of the non-appealing Party/ies response. If no response is submitted by the non-appealing Party/ies, then the written decision shall be issued within ten (10) Business Days after the date the response was due to be submitted.

8. The written Appeal decision, which will include the Appeal Decision-maker’s rationale, will be sent to the Parties simultaneously.

D. Appeal Decisions are Final

A decision denying the entitlement to an Appeal and all decisions made by the Appeal Decision-maker are final.

E. When an Appeal is not Filed

The Parties will be notified if the time to file an Appeal has expired without any Appeal having been submitted.

XVI. Grievance Process Timeframes

Measured from the conclusion of the investigation, Mount St. Mary’s University strives to meet the following timeframes for the Grievance Process. All days are measured in Business Days.

A. A Notice of Charge or Notice of Dismissal: The Notice of Charge or Notice of Dismissal will be sent to the Parties simultaneously within ten (10) Business Days of the conclusion of the investigation.

B. Notice of Live Hearing: As applicable, a Notice of Live Hearing will be sent the Parties simultaneously within ten (10) Business Days of the delivery of the Notice of Charge.

C. Challenge to Hearing Board Member: Within two (2) Business Days of receipt of the Notice of Live Hearing, Parties have the right to make a written request that the Title IX Coordinator remove a member of the Hearing Board based on reasonable and articulated grounds of bias, conflict of interest or an inability to be fair and impartial.

D. Live Hearing: The Live Hearing will begin no sooner than ten (10) Business Days after the Notice of Charge is issued, no sooner than five (5) Business Days after the Notice of Live Hearing, and no later than twenty (20) Business Days after the Notice of Live Hearing is issued.

E. Written Determination following a Live Hearing: Following a Live Hearing, the Written Determination will be sent to the Parties simultaneously within fifteen (15) Business Days of the conclusion of the Live Hearing.
F. Appeals:

1. Parties must file an Appeal within five (5) Business Days of receipt of the Written Determination.

2. Within five (5) Business Days of the receipt of the Appeal by the Title IX Coordinator, the Appellant and non-appealing Party/ies will receive written notice that an Appeal has been submitted and the identity of the Appeal Decision-maker.

3. The Parties will have two (2) Business Days after notice of receipt of the Appeal to request that the Title IX Coordinator remove a member of the Appeal Decision-maker based on reasonable and articulated grounds of bias, conflict of interest or an inability to be fair and impartial.

4. Within five (5) Business Days of the receipt of the Appeal, the Appeal Decision-maker will send written notice to the Parties either accepting or rejecting the Appeal.

5. The Appeal Decision-maker will issue its written decision on Appeal within ten (10) Business Days after the receipt of the non-appealing Party/ies response to the Appeal.

XVII. Informal Resolution

A. Option for Voluntary Informal Resolution

Mount St. Mary’s University offers a voluntary process for Formal Complaints to be addressed through Informal Resolution. During the Informal Resolution process, a Facilitator will attempt to help the Parties come to an agreement about how to resolve a Formal Complaint. The Informal Resolution process is available at the request of the Complainant and only after a Formal Complaint is filed and before a Determination of Responsibility or No Responsibility is issued.

The Informal Resolution process is never available where a Formal Complaint alleges sexual assault or sexual coercion or that a Mount St. Mary’s University Employee engaged in Title IX Sexual Harassment toward a student or subordinate.

All Parties’ participation in the Informal Resolution process must be voluntary. In order to initiate the Informal Resolution process, each Party must sign the “Consent to Informal Resolution Process” form and submit it to the Title IX Coordinator. When all Parties to a Formal Complaint have submitted the consent forms, Mount St. Mary’s University will pause the Grievance Process, including any ongoing investigation or hearing, for a period of fifteen (15) Business Days (unless a shorter or longer time is set by the Title IX Coordinator), to allow the Parties to proceed with the Informal Resolution Process. The time period during which the Grievance Process is paused for the Informal Resolution Process shall not count toward the time periods set forth to conclude the Grievance Process.
B. Notice Prior to Informal Resolution.

Prior to beginning the Informal Resolution process, Mount St. Mary’s University will provide notice of the allegations of the Formal Complaint and will direct the Parties’ attention to the Informal Resolution provisions of this Policy.

C. Role of the Facilitator

The Facilitator will decide the process and procedures to be used in the Informal Resolution process but shall not take actions inconsistent with this Policy. The Facilitator will treat the Parties fairly and equitably. Each Party may be accompanied by their Advisor during any portion of the Informal Resolution process. The Facilitator may meet with the Parties separately, may share information obtained during the course of any investigation with the Parties, may make suggestions about the terms of an Informal Resolution, and may take other reasonable steps to assist the Parties in determining if they can reach an Informal Resolution. The Facilitator shall not require the Parties to meet together, in-person, unless the Parties agree to do so.

If the Parties reach an agreement to resolve a Formal Complaint informally, the Facilitator shall create a written agreement that lists the terms of the Informal Resolution for the Parties to sign. A Party may withdraw from the Informal Resolution process at any time before they sign a written document agreeing to an Informal Resolution and within 48 hours after the Party signs the written agreement. If a Party timely withdraws from the informal resolution process, then Mount St. Mary’s University shall resume the Grievance Process.

Under no circumstances may the Facilitator be called as a Witness in the Grievance Process.

D. Approval of Informal Resolution By Title IX Coordinator

If no Party withdraws from the written agreement within 48 hours, the agreement shall be presented to the Title IX Coordinator for final approval and implementation. The Title IX Coordinator shall give deference to the Parties’ agreement but shall not approve an agreement that the Title IX Coordinator determines to be impractical, unduly burdensome, or inconsistent with the University’s obligations under this Policy, Title IX, or another applicable law or policy. If the Title IX Coordinator disapproves the Parties’ written agreement, the Facilitator and the Parties may agree to modify and resubmit the agreement. If they do not agree to do so and/or do not submit a modified written agreement, then Mount St. Mary’s University shall resume the Grievance Process.

XVIII. Prohibition Against Retaliation

Neither Mount St. Mary’s University nor any other person may retaliate against an individual who has participated or refused to participate in any matter addressed under this Policy. Retaliation includes any action to intimidate, threaten, coerce, or discriminate against an individual (a) for the propose of interfering with any right or privilege secured by Title IX or its implementing regulations; or (b) because the individual has made a Report or Formal Complaint, testified, assisted, or participated or refused to participate in any manner in any investigation, proceeding, or hearing under this Policy. Retaliation is also prohibited against
individuals involved in matters that do not arise under this policy but arise out of the same facts or circumstances as a Report or Formal Complaint of sex discrimination or sexual harassment.

**XIX. Recordkeeping**

Mount St. Mary’s University will maintain the records identified in this section of this Policy for a period of seven (7) years. The records maintained shall be kept confidential and not disclosed, except as permitted or required by law. The records may be maintained in paper or digital files.

In connection with each Report and each Formal Complaint, Mount St. Mary’s University will maintain the following records, to the extent they exist:

- documentation of any Report of alleged Title IX Sexual Harassment;
- documentation of any Supportive Measures or if no Supportive Measures are provided, the reasons why and an explanation of how Mount St. Mary’s University’s response was not clearly unreasonable;
- the Formal Complaint;
- documentary evidence gathered in the course of an investigation and photographs or descriptions of non-documentary evidence gathered in the course of an investigation;
- written responses of the parties provided prior to the finalization of the investigation report;
- the Investigation Report;
- the audio recording, audiovisual recording, or transcript of any Live Hearing;
- the Written Determination;
- any Appeal and Written Appeal Decision;
- records of the sanctions and/or remedies;
- records of any other steps taken to restore or preserve equal access to Mount St. Mary’s University’s Education Program or Activity,
- any written agreement of an informal resolution; and
- a statement documenting the basis for Mount St. Mary’s University’s conclusion that its response to a report or formal complaint was not deliberately indifferent.

Mount St. Mary’s University shall also maintain all materials used to train its Title IX Coordinators, Investigators, Decision-makers, and Facilitators and a copy of each version of its Title IX Policy on Sex Discrimination.

**XI. Modifications to this Policy**

This Policy may be modified from time-to-time, during an academic year or otherwise, in the University’s discretion and as may be required by law. Mount St. Mary’s University Employees and Students will be notified whenever this Policy is modified.
GLOSSARY OF DEFINED TERMS

• Advisor: A person selected by a Complainant or Respondent or appointed by Mount St. Mary’s University to support Complainant or Respondent or a person appointed by Mount St. Mary’s University to ask Cross-examination Questions, if the Party has not selected another Advisor.

• Administrative Leave: Temporary separation from a person’s job, with or without pay and benefits intact, as determined by Mount St. Mary’s University and any relevant obligations binding Mount St. Mary’s University.

• Appeal: An objective review of the prior process and outcome unless new evidence must be considered.

• Appeal Decision-maker: An individual or a group of people that decides an Appeal. An Appeal Decision-maker cannot be the Investigator, the Title IX Coordinator, or members of the Hearing Board.

• Appellant: A person who files an Appeal.

• Business Days: Any day, excluding Saturday, Sunday, and federal and state holidays, and University closures.

• Campus Official: An Employee of Mount St. Mary’s University who has authority to institute corrective measures on behalf of Mount St. Mary’s University.

• Complainant: An individual who is alleged to have been the target of conduct that could constitute Title IX Sexual Harassment under this Policy, whether or not the individual has filed a Formal Complaint.

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

  o 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.

  o Consent is required regardless of whether the person initiating the act is under the influence of drugs and/or alcohol.

  o Consent may be initially given but withdrawn at any time.

  o 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.

- Credibility: The worthiness of belief of information shared by a Party or a Witness.

- Cross-examination Questions: Relevant questions and follow-up questions, including questions challenging Credibility. Cross-examination Questions are intended to give the Parties equal opportunity to meaningfully challenge the plausibility, reliability, Credibility, and consistency of the information provided by the other Party and Witnesses so that the outcome of each individual case is more likely to be factually accurate.

- Dating Violence: Violence committed by a person: (a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and, (b) where the existence of such a relationship shall be determined by (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship. Title IX requires that Mount St. Mary’s University use this definition, of Dating Violence.

- Decision-maker: A person or persons designated to conduct Live Hearings, to decide whether or not a violation of this Policy has or has not occurred, to determine disciplinary sanctions and Remedies when a violation has occurred, and/or to decide Appeals. Decision-makers may or may not be Employees of Mount St. Mary’s University. Decision-makers are trained on the definition of Title IX Sexual Harassment, the scope of Mount St. Mary’s University’s program or activity, the Grievance Process, Relevance, the technology to be used at a hearing, how to conduct hearings and Appeals, and how to serve impartially.

- Determination of Responsibility or No Responsibility: A determination by the Hearing Board regarding whether the conduct of Respondent found to have occurred (the Findings of Fact) violates this Policy.

- Domestic Violence: Violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state, or by 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 the state. Title IX requires that Mount St. Mary’s University use this definition of Domestic Violence.
• Education Program or Activity: Locations, events, or circumstances over which Mount St. Mary’s University exercised substantial control over the Respondent and the context in which the conduct allegedly constituting Title IX Sexual Harassment occurred. Education program or Activity includes any building owned or controlled by Mount St. Mary’s University and/or by a student organization that is officially recognized by Mount St. Mary’s University.

• Employee: Faculty, staff, administrator, and any other individual employed by Mount St. Mary’s University in any capacity or role, except not including a person who is also enrolled as a full-time student of Mount St. Mary’s University.

• Exculpatory Evidence: Evidence, such as a Statement, tending to excuse, justify, or absolve the alleged fault or responsibility of a Respondent.

• Facilitator: A person or persons designated to facilitate an Informal Resolution of a Formal Complaint. Facilitators may or may not be Employees of Mount St. Mary’s University. Facilitators are trained on the definition of Title IX Sexual Harassment, the scope of Mount St. Mary’s University’s program or activity, how to conduct an Informal Resolution process, and how to serve impartially.

• Formal Complaint: A document signed by a Complainant or a Title IX Coordinator alleging Title IX Sexual Harassment against a Respondent and requesting that the allegation(s) be investigated.

• Findings of Fact: A Hearing Board’s decision regarding what occurred.

• Grievance Process: The process for investigating and resolving a Formal Complaint.

• Hearing Board: A single Decision-maker or group of Decision-makers who conduct the Live Hearing. The Hearing Board cannot be the same person(s) as the Title IX Coordinator or the Investigator.

• Inculpatory Evidence: Evidence that shows or suggests that a Respondent engaged in the alleged Title IX Sexual Harassment.

• Informal Resolution: A voluntary process that allows the Parties to engage in discussions in an attempt to come to an agreement, subject to approval by Mount St. Mary’s University to resolve a Formal Complaint that does not involve a full investigation, hearing, and/or determination.

• Investigator: A person or persons, internal or external to Mount St. Mary’s University, designated by Mount St. Mary’s University to investigate the allegations of a Formal Complaint. An Investigator may also be the Title IX Coordinator but may not be a member of the Hearing Board or the Appeal Decision-maker. Investigators are trained on the definition of Title IX Sexual Harassment, the scope of the University’s program or activity, the Grievance Process, Relevance, how to conduct an investigation, how to create an investigation report, and how to serve impartially.
• Live Hearing: A hearing where all Parties can see and hear each other in real time, whether in the same location or connected via technology.

• Notice of Charge: A notice sent to the Parties detailing the allegations potentially constituting Title IX Sexual Harassment (the charges) and indicating that charges and information gathered during an investigation will proceed to the Grievance Process for evaluation.

• Notice of Dismissal: written notice of the Title IX Coordinator’s decision to dismiss a Formal Complaint, including the basis of the decision.

• Notice of Investigation: A written notice to the Parties commencing the Grievance Process.

• Notice of Live Hearing: The letter sent to the Parties providing notice that allegations falling within the scope of this Policy will proceed to a Live Hearing.

• Party or Parties: Individuals who are Complainants and Respondents in a Grievance Process. When referencing the Complainant, the Respondent may be referred to as the “other Party” and when referencing the Respondent, the Complainant may be referred to as the “other Party.”

• Procedural History: A section of the Written Determination describing the procedural steps taken from the receipt of the Formal Complaint through the determination, including notifications to the Parties; the date Respondent received notice of the allegation; the investigation process; and hearings held.
  
  o Regarding the description of the investigation process, the Procedural History section should include: which Parties and Witnesses were interviewed and when; site visits; methods used to gather evidence; what type of evidence was reviewed; and the process undertaken to inspect and review the evidence and to disseminate the investigation report, including timelines. The Written Determination should include any actual or perceived procedural issues. For example, if a process was delayed for good cause, that delay should be explained in the Written Determination. Likewise, if the Parties requested that the Investigator follow certain “leads” that the Investigator was not reasonably able to pursue based on a lack of time, resources, or the unavailability of Witnesses, that should be addressed in the timeline.

• Procedural Irregularity: A failure to follow Mount St. Mary’s University’s own procedures.

• Rape Shield Protections: Rules that protect Complainants from questions about or submission of evidence regarding the Complainant’s sexual predisposition or prior sexual behavior except in very limited circumstances.

• Relevance: Information that is relevant directly relates to the allegations in dispute, and, therefore, is probative of a material fact concerning the allegations. Information that is
not relevant includes information protected by a legally recognized privilege; evidence about a Complainant’s prior sexual predisposition or prior sexual behavior unless offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant or offered to prove Consent, where Consent is at issue (and it concerns specific instances of sexual behavior with Respondent); any Party’s medical, psychological, and similar records unless the Party has given voluntary, written consent; Party or Witness Statements that have not been subjected to Cross-examination at a Live Hearing; and evidence duplicative of other evidence.

• Remedies: Measures taken by Mount St. Mary’s University following a Determination of Responsibility on the part of Respondent designed to restore or preserve equal access to Mount St. Mary’s University’s Education Program or Activity. Remedies may be disciplinary or punitive and may burden the Respondent.

• Report: The submission of information to the Title IX Coordinator or a Campus Official regarding a potential violation of this Policy. A Report is not a Formal Complaint and, therefore, will not be investigated and does not trigger the Grievance Process.

• Respondent: Any individual who has been alleged to have engaged in conduct that could violate this Policy.

• Sexual Assault: Any conduct that would constitute a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Sexual Assault includes the following prohibited conduct:

1. **Rape (Except Statutory Rape)** - the carnal knowledge of a person, without the Consent of the person, including instances where the person is incapable of giving Consent because of their age or because of their temporary or permanent mental or physical incapacity. “Carnal knowledge” means contact between the penis and the vulva or the penis and the anus, including penetration of any sort, however slight.

2. **Sodomy** - oral or anal sexual intercourse with another person, without the Consent of the person, including instances where the person is incapable of giving Consent because of their age or because of their temporary or permanent mental or physical incapacity.

3. **Sexual Assault with An Object** - to use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the Consent of the person, including instances where the person is incapable of giving Consent because of their age or because of their temporary or permanent mental or physical incapacity.

4. **Fondling** - touching of the private body parts of another person for the purpose of sexual gratification without the Consent of the person, including instances where the person is incapable of giving Consent because of their age or because of their temporary or permanent mental or physical incapacity.
5. **Incest** - nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

6. **Statutory Rape** - nonforcible sexual intercourse with a person who is under the statutory age of consent.

Title IX requires that Mount St. Mary’s University use this definition of Sexual Assault.

- **Stalking**: engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (a) fear for their safety or the safety of others; or (b) suffer emotional distress. Title IX requires that Mount St. Mary’s University use this definition of Stalking.

- **Standard of Evidence**: The Standard of Evidence reflects the degree of confidence that a Decision-maker has in the correctness of the factual conclusions reach. Mount St. Mary’s University will apply the PREPONDERANCE OF EVIDENCE Standard of Evidence to matters within the scope of this Policy.

- **Statement**: Evidence that constitutes a person’s intent to make factual assertions.

- **Supportive Measures**: Non-disciplinary and non-punitive services that are offered, without fee or charge, by Mount St. Mary’s University on an individualized basis to a Complainant or Respondent that are designed to restore or preserve equal access to Mount St. Mary’s University’s Education Program or Activity without unreasonably burdening the other Party.

- **Title IX Coordinator**: The person or persons designated by Mount St. Mary’s University as a Title IX Coordinator, including any persons designated as an “acting,” “deputy” or “interim” Title IX Coordinator. In the event that special circumstances require the Title IX Coordinator to designate another person to address their responsibilities, the term also includes the Title IX Coordinator’s designee.

- **Title IX Sexual Harassment**: Conduct, on the basis of sex, that occurs within Mount St. Mary’s University’s Education Program or Activity within the United States, and that involves:

  1. an employee of Mount St. Mary’s University conditioning the provision of an aid, benefit, or service on an individual’s participation in unwelcome sexual conduct;

  2. unwelcome conduct that is determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to Mount St. Mary’s University’s Education Program or Activity;

  3. Sexual Assault;

  4. Dating Violence;

  5. Domestic Violence; or,

  6. Stalking.
• Witness: A person who has seen, heard or otherwise has knowledge or information relevant to an alleged violation of this Policy, but not including the Investigator. The Investigator and Hearing Board meet with Witnesses at their request and at the suggestion of the Parties.

• Written Determination: A letter delivered simultaneously to the Parties that describes the Hearing Board’s decision regarding responsibility, which must be supported by evidence.
Policy Statement on Alcohol and Other Drugs

The *Student Code of Conduct* (available at [https://inside.msmary.edu/student-affairs/msmu-student-code-of-conduct.pdf](https://inside.msmary.edu/student-affairs/msmu-student-code-of-conduct.pdf)) is primarily a mechanism by which clear policies and procedures are established to provide the safest and best possible living and learning atmosphere for all students. The *Student Code of Conduct* is binding to all students upon their granted admission to the university and is designed to be an educational experience for all students involved. For the common good of all students and the campus community as a whole, conduct that goes against the law, community expectations, or a consistency of care for the university and fellow community members will be handled through the student conduct process. University policies are explained below.

**Alcohol Policy**

The following behaviors are not permitted with regards to alcohol:

a. Use or possession of alcohol under the legal drinking age.
b. Distribution of alcohol.
c. Drinking in public, public intoxication or possessing an open container.
d. Manufacturing alcohol.
e. Driving under the influence of alcohol.
f. Possessing consumption devises (funnels, bongs, etc.) and mass containers (kegs/mixed alcohol from a common source outside of its original packaging).
g. Participating in or being in the presence of activities (e.g. drinking games) that promote and encourage the excess consumption of alcohol; regardless of the age of the participants.
h. For students living in the residence halls/Tower apartments/Cottages/University houses, the possession of alcohol in excess of one 30-pack of beer, 2 bottles/boxes of wine, or a single bottle of liquor up to 1.75 liters, per legal aged student is prohibited. Students are not permitted to display empty alcohol containers in their rooms or in the windows. Any violations will require that display of alcohol material be treated as “in use.”
i. Possession of liquor in excess of 100 proof alcohol by volume on campus or in any University owned or operated facility or property.
j. Allowing a guest (regardless of age or relationship to host) to possess, consume, or provide alcohol within the host’s residence hall room if the host is not yet 21.

k. Allowing a guest to bring alcohol into a room where assigned residents are under 21.

l. Using alcohol containers/packaging for decoration and/or signage that promotes underage or irresponsible drinking in residential area.

**Drugs, Illegal and Controlled Substances**

The following behaviors are not permitted with regard to drugs:

a. Use and/or possession of marijuana.

b. Manufacturing, growing, or distributing, selling, or transferring of marijuana and/or any substances.

c. Use or possession of heroin, cocaine, acid, narcotics or other controlled substances.

d. Use or possession of any general product used as an intoxicant.

e. Driving under the influence or impaired.

f. Improper use, possession or distribution of prescription drugs.

g. Possession or use of drug paraphernalia (e.g. hookahs, rolling papers, bowls, pipes, bongs, vaporizers, handmade devices).
### ANNUAL DISCLOSURE OF CRIME STATISTICS – EMMITSBURG CAMPUS

#### CRIMINAL OFFENSES

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<th>OFFENSE</th>
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### ANNUAL DISCLOSURE OF CRIME STATISTICS – EMMITSBURG CAMPUS

#### VAWA OFFENSES

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<tr>
<th>OFFENSE</th>
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<th>On-Campus Student Housing Facilities</th>
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#### Hate Crimes:
- 2018 - No Hate Crimes were reported calendar year 2018.
- 2019 - No Hate Crimes were reported calendar year 2019.
- 2020 - One Hate Crime was reported calendar year 2020.

#### Unfounded Crimes:
- 2018 - No unfounded crimes were reported.
- 2019 - No unfounded crimes were reported.
- 2020 - No unfounded crimes were reported.
## ANNUAL DISCLOSURE OF CRIME STATISTICS – EMMITSBURG CAMPUS

### ARRESTS AND DISCIPLINARY REFERRALS

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## ANNUAL DISCLOSURE OF CRIME STATISTICS – FREDERICK CAMPUS

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### ANNUAL DISCLOSURE OF CRIME STATISTICS – FREDERICK CAMPUS

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### ANNUAL DISCLOSURE OF CRIME STATISTICS – FREDERICK CAMPUS

#### VAWA OFFENSES

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**Hate Crimes:** No Hate Crimes were reported calendar years 2018, 2019, or 2020.

**Unfounded Crimes:** No unfounded crimes were reported calendar years 2018, 2019, or 2020.
## ANNUAL DISCLOSURE OF CRIME STATISTICS – FREDERICK CAMPUS

### ARRESTS AND DISCIPLINARY REFERRALS

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<td><strong>ARRESTS:</strong></td>
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Mount St. Mary’s University publishes this Fire Safety Report as a part of its annual Clery Act compliance. This report contains information about the fire safety practices and procedures for the university, including statistics concerning the number of fires, the number of injuries and deaths related to a fire, and the value of property damage caused by fire. The fire statistics are reported to the US Department of Education annually.

In accordance with the Clery Act, the university also maintains a Fire Safety Log that records by the date reported, any fire that occurs in an on-campus student housing facility. The Fire Safety Log is maintained by the Department of Public Safety. Members of the university community can review the log by contacting the Department of Public Safety at 301-447-5357. When reporting a fire, members of the university community should immediately call 911, and notify the Department of Public Safety at 301-447-5357, providing as much information as possible about the fire including the location, date, time, and cause of the fire. If a member of the university community finds evidence of a fire that has been extinguished, and the person is not sure whether the fire department has already responded, they should immediately notify the Department of Public Safety to investigate and document the incident.

The university takes fire safety seriously and has established fire safety programs for students living in campus residence halls. Fire evacuation plans can be found prominently posted in each residence hall. The Department of Public Safety partners with the Office of Residence Life to provide resident assistants and students with fire safety programs and evacuation procedures throughout the year.

In the event of a fire incident in a university facility, fire alarms that have been activated are meant to alert members of the university community of potential hazards. Members of the community should heed the warning of a fire alarm and evacuate buildings immediately upon hearing the alarm. Please follow the following procedure in the event of a fire:

1. Activate the fire alarm
2. Leave the building immediately using the closest emergency exit
3. Close the doors behind you
4. Notify the Department of Public Safety at 301-447-5357, or call 911 when safe to do so
5. Assemble in a designated area
6. Only re-enter the building when cleared to do so by the authorities

**Violations of Fire and Safety Regulations**

Violations of Fire Safety Regulations are treated seriously at the university. Violations of these regulations may also be investigated by the State of Maryland Fire Marshal’s Office in addition to the university. Generally, the regulation prohibits but is not limited to the following:

Fire safety is everyone’s responsibility. The following policies exist for the safety and security of the entire residential community:

a. Students present on a floor where a fire alarm sounds must immediately leave the building. Once outside the building, persons may not enter a building while the alarm is sounding anywhere in the building. The building may be entered only after instructions are given by the appropriate official. For safety reasons, fire drills will be routinely scheduled during the semester in all residence halls and apartments.

b. Fire alarms and fire extinguishers are located on every floor in every building. Familiarize yourself with their locations.

c. Candles are not permitted in University Housing. The use of any objects with open flames are prohibited.

d. No items inside a student room, suite or apartment shall obstruct the doorway or impede exiting or entering the room. This includes furniture, curtains, hanging beads, clutter on the floor, wires or any other object that could impede entry or exit. Additionally, a clear view from the doorway into the room, suite or apartment is required. Therefore, no items shall block the view into the room (e.g., curtains, furniture, linen, sheets, paper, etc.).

e. No items may be hung, adhered or affixed to any fire equipment including sprinkler systems.

f. Wires shall not be placed in an area where they can be stepped upon. Wires must never be taped to the floor/carpet. This includes wires from power cords, speaker wires, cable TV coaxial, phone wires, etc. If wires are in a foot traffic area, they must be in a cord cover that is Underwriters Laboratory (UL) approved. Residents need to assure that wires are not located where they can be worn or damaged. Note: Students should take caution when running wires along the walls, around doorframes, and behind furniture. Make sure that the wires are not pressed against any furniture that may move and cause damage. Any damaged wires must be discarded. Also, wires may not be attached to or hung from the ceiling. (Students may purchase 3m hooks to place around the top of the wall of a room to hang lights that meet the above requirements.)

g. Persons, whose actions cause a fire alarm to sound, interfere with a fire alarm system or with fire fighters, tamper with, inappropriately use or remove fire
extinguishers or other fire safety devices, including sprinkler systems, smoke detectors, exit signs, call boxes, and room alarms are subject to disciplinary action and removal from University Housing. Behavior that activates the fire/safety system will be considered a major policy violation.

The following behaviors are not permitted with regard to fire safety:

a. Failure to comply with evacuation procedures.
b. Tampering with fire equipment.
c. Unauthorized use of fire exit doors.
d. Setting a fire, committing arson or contributing materials or fuel to a fire.
e. Possession, use, or threatened use of fireworks or other explosive devices that could cause a fire and/or damage.
f. Use of open flame devices or open heat sources (e.g. incense, candles, coffee pots without automatic shutoffs, space heaters).
g. Smoking any substance within University buildings (includes e-cigarettes, personal vaporizers).

**Residence Life Regulations Regarding Appliances and Furnishings**

All rooms are furnished with single beds, dressers, desks, and chairs. No university furniture can be removed from the student room for any reason without exception. Students need to provide your own linens, pillow, desk lamp and wastebasket. Any other luxury items are the responsibility of the student. The following is not permitted in the residence hall/room:

a. Individual air conditioning units.
b. Only one Underwriters Laboratory (UL) seal of approval, 3.6 cubic foot, 1.5 amp (120 volts, 60 cycle AC) maximum refrigerator with a 3-prong electric plug and 3 wire cord is allowed per room (Energy Star rated models preferred).
c. The possession of other electrical cooking appliances is prohibited in student rooms, including Apartment bedrooms. Coffee markers with exposed heating elements/hot plate are prohibited. In Apartment complex kitchens, students may store and use only approved appliances with an enclosed heating element. Heating or cooking devices that utilize flammable liquids or flammable compressed gases are strictly prohibited from use in university housing by fire code.
d. The use of all power tools (e.g. power drills, saws, screwdrivers, etc.).
e. The misuse of any electrical appliance (e.g., iron, hair dryer, etc.). This includes items with frayed wires or ground plugs that have been altered.
f. Mattresses are to be used on the bed frames provided and not on the floor. All beds, except bunk beds, must remain on the floor and may not be elevated in any manner. Waterbeds, other beds, any large pieces of furniture, (i.e., wardrobes, dressers, etc.) may not be brought into the residence halls. Furniture is to remain upright and used as designed and is not to be disassembled in any manner. Furniture may not be stacked.

g. Lounge furniture that is provided for the general use of all students in the common or lounge area is not to be removed for use in individual rooms. Lounge furniture found in student rooms will be removed by University Staff and a charge for this removal will be assessed to the students’ account.

h. Common area furniture cannot be removed from the common area which includes moving it into student rooms. Furniture in other public areas in the building cannot be moved into the common area.

i. Apartment Complexes: All furniture in the apartment must stay in the apartment. Furniture in other public areas in the building cannot be moved into the apartment.

Fire Drills and Student Evacuation

The purpose of a fire drill is to raise fire safety awareness in the university community. Building occupants are trained in their responsibilities in the event of a fire alarm in their building. When the evacuation drill is conducted, the fire alarm is activated. Occupants evacuate the building proceeding to the assigned evacuation location as designated in the Emergency Action Plan (EAP) specific to each building. The evacuation location for each residence hall is posted on the back of each residence hall door and at various locations near exits within the building. Fire drills are conducted two (2) times per year in each residence hall. One (1) fire drill is conducted in the Fall semester, and one (1) in the Spring semester. Fire drills are conducted in each on-campus student residences at least two times each semester. Unacceptable response to a fire drill may result in additional fire drills until acceptable response is achieved.

If a fire occurs in a residence hall, displaced students will be provided with alternative housing by the Office of Residential Life. Personnel from that office are on call 24 hours a day to ensure quick re-housing of displaced students.

Fires in any university building shall be immediately reported to the Department of Public Safety. The Director of Public Safety shall be notified as soon as possible. Fires in any on-campus student residence facility shall also be reported to the Dean of Students as soon as possible, but no later than the next business day.

Fire Safety Systems

The university’s fire safety systems consist of electronic and mechanical alarms and detectors in student residences that are monitored continuously at Public Safety offices. The university maintains fire safety systems in all on-campus student residences using smoke detectors, heat
detectors, manual pull stations, and audible alarms and visible alarms monitored at the Department of Public Safety twenty-four (24) hours a day/seven (7) days a week. Below is a complete list of fire safety systems in on-campus student residences.

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<th>Heat Detectors</th>
<th>Manual Pull Stations 24/7</th>
<th>Audible Alarms</th>
<th>Visual Alarms</th>
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</table>
All Public Safety Officers are trained in basic first aid and CPR/AED. Additionally, the university provides annual instruction to the residence life staff in the use of fire safety equipment and extinguishers. The university’s residence hall fire safety regulations are incorporated into the *Student Code of Conduct*. 
## 2018 Fire Statistics

<table>
<thead>
<tr>
<th>Residential Facilities</th>
<th>Total Fires in each Building</th>
<th>Fire #</th>
<th>Date</th>
<th>Time</th>
<th>Cause of Fire</th>
<th>Number of Injuries that required treatment at a medical facility</th>
<th>Number of Deaths related to a fire</th>
<th>Value of property damage caused by Fire</th>
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## 2019 Fire Statistics

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<th>Residential Facilities</th>
<th>Total Fires in each Building</th>
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<th>Date</th>
<th>Time</th>
<th>Cause of Fire</th>
<th>Number of Injuries that required treatment at a medical facility</th>
<th>Number of Deaths related to a fire</th>
<th>Value of property damage caused by Fire</th>
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<tr>
<td>Alumni House</td>
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## 2020 Fire Statistics

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<th>Residential Facilities</th>
<th>Total Fires in each Building</th>
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<th>Date</th>
<th>Time</th>
<th>Cause of Fire</th>
<th>Number of Injuries that required treatment at a medical facility</th>
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Appendix A – CRIME PREVENTION AND SAFETY PROGRAMS

Student Government Association meetings/presentations during an academic year

Transfer student meetings – August & January

Professional Development for Administrative Professionals

Professional Development for University HR professionals

Mount-Cares Committee for at-risk students (bi-weekly)

Participation in University general assemblies

Athletic Coaches and athlete presentations throughout the year

Meetings with local law enforcement officials - throughout the year

Meetings with peer college & university public safety officials - throughout the year

Faculty Senate & faculty department briefings – throughout the year

Alcohol Awareness Week every October

Holiday Safety Notices every November

Sexual Assault Awareness Month every April and sexual assault presentations

Admissions prospective student and parent safety presentations throughout year

Active Assailant response/safety and Emergency Evacuation training developed for Leadership and specific departments for their area of responsibility

Mount Mindfulness offered every week throughout the semester

Orientation safety presentation throughout the summer