

## IV. STUDENT RIGHTS & RESPONSIBILITIES

### EQUAL OPPORTUNITY AND NONDISCRIMINATION POLICY

#### 1. SCOPE OF THE POLICY

Mount St. Joseph University (the “University”) is committed to providing a working and educational environment free from discrimination and harassment on the basis of race, color, national origin, religion, age, disability, sex, pregnancy, sexual orientation, gender identity, or any other legally protected status. This policy focuses on incidents of discrimination, harassment, or retaliation related to race, color, national origin, religion, age, disability, or other legally protected statuses (including incidents of discrimination, harassment or retaliation that are outside the scope of Title IX, as set forth in the University’s Sex Discrimination, Sexual Misconduct and Interpersonal Violence Policy).

For incidents of sex discrimination, sexual harassment, sexual misconduct, and interpersonal violence please see the University’s [Sex Discrimination, Sexual Misconduct and Interpersonal Violence Policy](#).

This policy applies to all University community members, including students, prospective students, employees, professors, administrators, visitors, or other third-parties. This policy applies to all of the University’s education programs and activities, which extends to admissions and employment. This policy applies not only to conduct occurring within the typical classroom or campus settings, but also to any location owned or operated by the University (or owned or controlled by a student organization that is officially recognized by the University) as well as locations, events, or circumstances over which the University exercises substantial control even if it takes place outside of those typical settings.

Off-campus conduct that has an actual or potential adverse impact on another’s working or learning environment may also violate this policy. The University will consider the effects of off-campus conduct—including conduct that did not occur in the context of an education program or activity—when evaluating whether there is a violation of this policy. The University expects that all members of its community will help promote a learning and working environment free from the conduct prohibited under this policy.

#### 2. NOTICE OF NON-DISCRIMINATION

The University does not tolerate discrimination, harassment, or retaliation on the basis of race, color, origin, religion, age, disability, sex, pregnancy, sexual orientation, gender identity, veteran status, or any other legally protected status and takes steps to ensure that students, employees, visitors, and other third-parties are not subject to a hostile environment.

The University will respond promptly and effectively to allegations of discrimination, harassment, or retaliation on the basis of race, color, origin, religion, age, disability, sex, pregnancy, sexual orientation, gender identity, or other legally protected status. The University will promptly conduct investigations and take appropriate action, including disciplinary action, against individuals found to have violated this policy, as well as provide appropriate remedies to complainants and the campus community. The University will take immediate action to end a hostile environment if one has been created, prevent its recurrence, and remedy the effects of any hostile environment on affected members of the campus community.

All students found in violation of this policy will be subject to disciplinary action up to and including suspension or dismissal from the University. Similarly, any employee found in violation of this policy

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shall be subject to disciplinary action up to and including termination of employment. Behavior that violates this policy may also violate federal, state, and/or local laws.

### **3. ANTI-HARASSMENT**

The University's prohibition against discrimination also includes harassment. Harassment of any person or group of persons, on the basis of race, color, national origin, religion, age, disability, sex, pregnancy, sexual orientation, gender identity, or any other legally protected status, is prohibited by the University.

Prohibited harassment includes any words or conduct (verbal, physical, graphic or written) directed against any person or group of persons because of their race, color, national origin, religion, age, disability, sex, pregnancy, sexual orientation, gender identity, or any other legally protected status that has the purpose or reasonably foreseeable effect of creating an **offensive**, demeaning, intimidating, or hostile environment for any person or group of persons. Such words or conduct may include, but are not limited to, epithets, slurs, negative stereotyping, demeaning depictions or treatment, and threatened or actual abuse or harm.

### **4. ANTI-RETALIATION**

The University will not tolerate any form of retaliation taken against anyone who makes a complaint of conduct prohibited by this policy or anyone who cooperates in the investigation of a complaint of conduct prohibited by this policy. Retaliatory acts prohibited by this policy may include, but are not limited to, adverse employment action taken against employees; adverse action relating to participation in an educational program; unreasonable interference with an individual's academic or professional career; stalking, harassment, or assault; and inciting or aiding and abetting the retaliatory conduct of another.

### **5. OTHER MISCONDUCT**

Inappropriate or unprofessional remarks or other conduct may be reason for intervention and/or discipline even if such misconduct does not ultimately constitute or rise to the level of unlawful discrimination, harassment, or retaliation as those terms are defined in this policy and/or by applicable law. In addition, if any student or employee is found through proceedings brought pursuant to this policy to have engaged in misconduct in violation of another University policy or standard of conduct, that student or employee will be subject to disciplinary action pursuant to policy or standard that was violated even if no violation of this policy is found.

### **6. EQUAL OPPORTUNITY OFFICE AND OFFICER**

The University has designated its Office of Human Resources as its Equal Opportunity Office. The Equal Opportunity Office is managed by the University's Chief Human Resources Officer of the Office of Human Resources, Teri Compton, who is also the University's designated Equal Opportunity Officer. Ms. Compton can be reached by phone at (513) 244-4979 or by email at [tericompton@msj.edu](mailto:tericompton@msj.edu). The Equal Opportunity Office is the office responsible for responding to inquiries, addressing complaints, and coordinating compliance with the University's responsibilities under the various federal and state civil rights laws, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and the Americans with Disabilities Act. All inquiries, issues, or complaints relating to discriminatory, harassing, or retaliatory conduct related to race, color, national origin, religion, age, disability, or another legally protected status should be directed to the Equal Opportunity Office.

For incidents of sex discrimination, sexual harassment, sexual misconduct, and interpersonal violence, please see the University's Sex Discrimination, Sexual Misconduct and Interpersonal Violence Policy for contact information for the University's Title IX Coordinator.

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## 7. REPORTING

The University encourages any student or employee who has experienced any conduct prohibited by this policy to report such conduct immediately and in accordance with the procedures detailed below. Any student or employee who has witnessed or become aware of any conduct prohibited by this policy must report such conduct immediately and in accordance with the procedures detailed below. Employees who become aware of an alleged violation of this policy are required to report such conduct immediately to the Equal Opportunity Officer/CHRO of the Office of Human Resources, unless there is a legal privilege of confidentiality.

While the University strongly encourages everyone to report incidents of conduct prohibited by this policy, it recognizes an alleged victim's right to decline such reporting. Nonetheless, if the University is made aware of an allegation of conduct that is prohibited by this policy, the University may have an obligation to investigate and/or act in response to that conduct, with or without the cooperation of the alleged victim.

Upon receipt of a report to the University, the Equal Opportunity Officer will discuss availability of supportive measures with the alleged victim as well as explain the processes in this policy.

Crimes (or any conduct prohibited by this policy which a student or employee may believe is a crime) in progress should be reported immediately to the MSJ Police Department at 513-244-4226 or dial 0 from any campus phone.

### **Reporting Discrimination, Harassment, or Retaliation**

Any student or employee who has been the victim of, witnessed, or become aware of discrimination, harassment, or retaliation on the basis of race, color, origin, religion, age, disability, or any other legally protected class (other than sex) should report such conduct to the following offices:

- Criminal complaint
  - MSJ Police Department, (513) 244-4226 or dial 0 from any campus phone; additional information regarding reporting emergencies can be found on the MSJ Police Department Webpage
- Institutional complaint
  - Teri Compton, Equal Opportunity Officer/Chief Human Resources Officer of the Office of Human Resources, (513) 244-4749, [teri.compton@msj.edu](mailto:teri.compton@msj.edu), or submit a report/complaint Reporting Form

A student or employee may pursue both the University's processes and criminal processes.

Any student or employee who has been the victim of, witnessed, or become aware of discrimination, harassment, or retaliation on the basis of race, color, origin, religion, age, disability, or any other legally protected class (other than sex) should report such conduct to the following offices:

### **Anonymous Reporting**

Reports of violations of this policy can be made anonymously by calling or texting 513-244-TIPS or emailing [244TIPS@msj.edu](mailto:244TIPS@msj.edu). These anonymous reporting options are available 24 hours a day/365 days a year.

Please note that these anonymous reporting options are not intended for any immediate safety or emergency situations. All immediate safety or emergency situations should be reported immediately to the MSJ Police Department at 513-244-4226 or dialing 0 from any campus phone.

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### **Written Statement of Rights**

Any employee or student bringing forth a complaint of discrimination, harassment, or retaliation prohibited under this policy and any employee or student accused of such conduct will be provided with a written statement of their rights, reporting options, and resources.

### **Campus Security Authorities**

Reports of any type of discrimination or retaliation prohibited under this policy can also be made to any of the University's Campus Security Authorities ("CSAs").

### **Confidentiality and Support**

The University may, to the extent permitted by law, honor a request by a complainant that no investigation be pursued. Confidentiality requests should be made directly to the Equal Opportunity Officer/Chief Human Resources Office of the Office of Human Resources, Teri Compton, (513) 244-4979 or [teri.compton@msj.edu](mailto:teri.compton@msj.edu).

If a complainant requests that the University not reveal the complainant's name to the respondent and/or asks the University to not investigate a report, this may limit the University's ability to respond fully to the incident, including pursuing disciplinary action against the respondent. However, in order to ensure a safe and nondiscriminatory environment for all students or if required to report the incident by law, the University may not be able to honor a request for confidentiality. Regarding its obligation to ensure a safe and nondiscriminatory environment, a complainant's request for confidentiality will be determined after considering factors such as the seriousness of the alleged incident, the ages of the individuals involved, other complaints that may have been filed against a respondent, and a respondent's legal right to receive information maintained by the University as an education record.

Additionally, the University has a duty to complete certain publicly available recordkeeping, including reporting and disclosing information about certain crimes pursuant to a federal law known as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the "Clery Act"). The University is also obligated to issue timely warnings of crimes enumerated in the Clery Act occurring within relevant geography that represent a serious or continuing threat to students and employees, except in those circumstances where issuing such a warning may compromise current law enforcement efforts or when the warning itself could potentially identify the reporting individual. Duties under the Clery Act will not require the University to report or disclose a complainant's personally identifying information.

Further, there may be situations where disclosing some information about a complainant (or respondent) is necessary to provide a safe and non-discriminatory environment and/or to provide any supportive measures. For allegations of conduct related to discrimination, harassment, or retaliation on the basis of race, color, origin, religion, age, disability, or any other legally protected class, the Equal Opportunity Officer/Chief Human Resources Office of the Office of Human Resources will determine what information about an individual needs to be disclosed and to whom this information will be disclosed. Unless extenuating circumstances exist, the individual will be informed before sharing personally identifying information that the University believes is necessary to provide a safe and non-discriminatory environment and/or to provide any supportive measures.

If a student or employee tells a Campus Security Authority ("CSA") about a criminal incident that was not reported to the MSJ Police Department, the CSA is required to report the information to the MSJ Police Department.

Students may seek support from the University's Wellness Center. Counselors and/or licensed health care professionals such as nurses and physicians are available to students through the Wellness Center. These

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trained professionals can provide students with counseling, information, and support in a confidential setting. Information shared by a student with a confidential resource at the University will not be disclosed to anyone else, including the University, except under limited circumstances. Incidents reported to a confidential resource will not be included in the University's annual crime statistics. These confidential resources available at the Wellness Center will not share information about a student (including whether that individual has received services) without the student's express permission, unless there is a continuing threat of serious harm to the individual patient/client or to others or there is a legal obligation to reveal such information. These support service providers are also available to help a student make a report to the University.

For employees, support from healthcare professionals may be available through the TriHealth Employee Assistance Program (EAP). The EAP is a benefit provided to all full-time and pro rata faculty and full-time, pro rata, and benefit-eligible part-time staff and members of their immediate households. The EAP may provide employees with assessment, short-term counseling, and referral and follow up services. All EAP services are offered to eligible faculty, staff and household members free of charge. The TriHealth EAP can be contacted at (513) 891-1627, at 1-800-642- 9794, or at [www.TriHealthEAP.com](http://www.TriHealthEAP.com). Information shared by an employee with a confidential resource through the EAP will not be disclosed to anyone else, including the University, except under limited circumstances. Incidents reported to a confidential resource through the EAP will not be included in the University's annual crime statistics. These confidential resources available through the EAP will not share information about an employee (including whether that individual has received services) without the employee's express permission, unless there is a continuing threat of serious harm to the individual patient/client or to others or there is a legal obligation to reveal such information.

An alleged victim is encouraged to make a report even if the alleged victim is not seeking disciplinary action against the respondent. The University will make every effort to respect a complainant's autonomy in determining how to proceed. Supportive measures and resources are always available to an alleged victim regardless of the chosen course of action. Receiving a report of an incident permits the University to keep records of reported incidents and determine the appropriate response and the potential need to alert the University community to potential danger. Reported incidents will also be included in the University's annual crime statistics as required

### **Supportive Measures**

As appropriate, the Equal Opportunity Officer/Chief Human Resource Office of the Office of Human Resources will provide supportive measures to the complainant and the respondent. Supportive measures include non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational environment, or deter conduct in violation of this policy.

Supportive measures may include but are not limited to counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

The Equal Opportunity Officer/Chief Human Resource Office of the Office of Human Resources will be responsible for coordinating effective implementation of supportive measures. Individuals requesting

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additional supportive measures or experiencing difficulty with a violation of supportive measures that have been approved should immediately contact the Equal Opportunity Officer/CHRO of the Office of Human Resources. The University will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining that confidentiality would not impair the ability of the University to provide the supportive measures.

An individual may also consider seeking a protection or restraining order through a court of law. A protection or restraining order is a temporary order intended to help provide safety and protection from another individual. If you have a protection or restraining order against someone and that person violates the order in any way, law enforcement may be able to arrest that person and charge that person with a violation of the order. If needed and to the extent possible, the University will provide assistance in obtaining a protection order. To the extent possible, any such protective measures will be confidential. Please contact the Equal Opportunity Officer/CHRO of the Office of Human Resources for more information about these protective measures, including for contact information for law enforcement agencies and/or the prosecutor's office.

### **Other Available Resources**

Any complainant and respondent will be notified upon request regarding medical, counseling, victim advocacy, support, respondent advisor support, legal assistance, visa and immigration assistance, student financial aid assistance, and pastoral resources available through the University or through external referral sources.

### **Good Samaritan/Amnesty Policy**

The University values a safe environment conducive to learning and is committed to ensuring the safety and well-being of each student and employee. The University is also committed to providing guidance so that all members of the University community develop a responsible approach to social challenges, including whether to use alcohol, how to do so in moderation, and how to comply with local, state, and federal laws governing alcohol consumption.

Additionally, the University encourages reporting of conduct prohibited by this policy and seeks to remove any barriers to making a report. The University recognizes that an individual who has been drinking alcohol or using drugs at the time of an incident may be hesitant to make a report and/or file a formal complaint because of potential consequences for his/her own conduct. An individual that reports conduct prohibited by this policy, either on his/her own behalf or as a witness, will not be subject to disciplinary action by the University for the individual's own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violation did not and does not place the health or safety of any other person at risk.

### **Emergency Removal and Administrative Leave**

The University may remove a respondent from the University's education programs and activities on an emergency basis where, after undertaking an individualized safety and risk analysis, the University determines that an immediate threat to the physical health or safety of any student or other individual arising from the alleged violation(s) of this policy justifies removal. If the University makes such a determination, it will notify the respondent in writing and provide the respondent an opportunity to immediately challenge that decision.

The University retains full discretion to place a non-student employee respondent on administrative leave during the pendency of the resolution process.

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## **8. INVESTIGATORY PROCEDURES<sup>1</sup>**

### ***Criminal Complaints***

Criminal complaints follow criminal processes which may include a police investigation, a referral to the Hamilton County Prosecutor's Office, and/or the criminal court system for resolution.

### **Institutional Reports and Complaints**

The University's investigation of reports and/or "formal" institutional complaints of policy violations is different and separate from a criminal complaint investigation by any law enforcement agency. An ongoing law enforcement investigation does not relieve the University of its Obligation to investigate allegations of conduct prohibited by this policy. In cases involving potential criminal conduct, University personnel must determine, consistent with federal, state, and local law, whether appropriate law enforcement agencies or other authorities should be notified. Conduct may constitute a violation of this policy and result in disciplinary action by the University even if a law enforcement agency and/or court of law determines that the conduct did not constitute a crime.

If the MSJ Police Department receives a report/complaint of conduct potentially in violation of this policy, the MSJ Police Department will notify the Equal Opportunity Officer/Chief Human Resources Office of the Office of Human Resources.

In the event that an alleged victim or a third-party reports conduct potentially or allegedly in violation of this policy to the MSJ Police Department or the Equal Opportunity Officer/Chief Human Resources Office of the Office of Human Resources, the Equal Opportunity Officer/CHRO of the Office of Human Resources will discuss with the alleged victim the option of filing a "formal" institutional complaint. Such a complaint is a document that is written and signed (physically, digitally, or by some other means that sufficiently identifies the author) by the complainant which alleges a violation of this policy and seeks a formal University investigation of the incident(s). The institutional complaint should include as much detail as the complainant can recall about the incident(s) as well as any evidence the complainant believes will support the allegations in the institutional complaint. While filing an institutional complaint will provide the University the best opportunity to fully and thoroughly investigate the alleged conduct, filing an institutional complaint is not required nor is it a prerequisite to the University proceeding with an investigation into the alleged conduct.

In the event that an alleged victim(s) declines to submit a report or file a "formal" institutional complaint and in order to ensure a safe and non-discriminatory working and educational environment, the Equal Opportunity Officer/Chief Human Resources Office of the Office of Human Resources retains the discretion to file an institutional complaint where the Equal Opportunity Officer/ Chief Human Resources Office of the Office of Human Resources determines that an investigation is necessary to ensure a safe, equitable, and non-hostile work and/or educational environment. When the Equal Opportunity Officer/ Chief Human Resources Office of the Office of Human Resources files an institutional complaint, the Equal Opportunity Officer/ Chief Human Resources Office of the Office of Human Resources does not then become a complainant or a party to the resolution process.

All individuals accused of a violation of this policy (i.e., respondents) are presumed to be not responsible for the alleged conduct unless and until a determination regarding responsibility is made via the process set forth in this policy.

### ***Informal Resolution of Institutional Complaints***

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<sup>1</sup> Please see Section 11 below for investigative procedures that may be applied when the respondent is an employee of the University versus a student.

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In appropriate circumstances, and with the voluntary, written consent of the complainant and respondent, the Equal Opportunity Officer/ Chief Human Resources Office of the Office of Human Resources may attempt informal methods to resolve a report or an institutional complaint without the need for additional proceedings. When informal resolution is pursued, the Equal Opportunity Officer/ Chief Human Resources Office of the Office of Human Resources will provide written notice to the complainant and respondent regarding (1) the allegations; (2) the voluntary nature of the informal resolution process and the availability of a formal investigation at all times; and (3) any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared. The objective of the informal process will be to resolve the report or institutional complaint to the mutual satisfaction of the parties involved, if possible.

If the informal resolution process is attempted, efforts will be made to conclude it within twenty-one (21) days of when the parties submit their voluntary, written consent to participate in the process.

### **Formal Resolution of Institutional Complaints**

In instances where informal methods of resolution are inappropriate or declined, a formal investigation will be conducted.

While all investigations will vary due to the individual circumstances surrounding the particular report and/or institutional complaint, formal investigations under this policy will typically involve the following:

1. ***Initial Review***: Preliminary review of any report/complaint by the Equal Opportunity Officer/ Chief Human Resources Office of the Office of Human Resources to determine whether, on its face, a violation of the policy is alleged and a formal investigation is needed.
2. ***Equal Opportunity Officer Notice***: If a violation of the policy is alleged, the Equal Opportunity Officer/ Chief Human Resources Office of the Office of Human Resources will provide written notice to the complainant and respondent within seven (7) days of the Initial Review. Written notice will include the known details of the report and/or a copy of the institutional complaint, identification of the policy section(s) alleged to have been violated, the statement of rights under this policy, notice of the procedures under this policy, notice of potential sanctions, a statement that the respondent is presumed not responsible and a determination regarding responsibility will be made at the conclusion of the process set forth in this policy, a statement informing the parties that they can request to inspect and review evidence, and a statement informing the parties that the University's code of conduct prohibits knowingly making false statements or knowingly submitting false information to the University.
3. ***Equal Opportunity Team Assignment***: Formal investigations are coordinated by the Equal Opportunity Officer/ Chief Human Resources Office of the Office of Human Resources. The Equal Opportunity Officer/ Chief Human Resources Office of the Office of Human Resources will assign University employees who are trained to conduct each stage of the formal investigation process. The Equal Opportunity Team Members consist of University employees trained in the areas of antidiscrimination laws and regulations, investigations, adjudication processes, appeal processes and the University's policy. Along with the Equal Opportunity Officer Notice, the Equal Opportunity Officer/ Chief Human Resources Office of the Office of Human Resources will send a written "Initial Equal Opportunity Team Assignment" to the complainant(s) and respondent(s), which will include the names of the Equal Opportunity Team Members assigned to the particular report/institutional complaint and each Equal Opportunity Team Member's assigned role, as follows:
  - Equal Opportunity Investigator(s) (more than one member may be assigned)
  - Equal Opportunity Appellate Official(s) (more than one member may be assigned)

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- Alternate (one member, in the event that any assigned Equal Opportunity Team Member becomes unavailable)

Before assigning someone to the Equal Opportunity Team, the Equal Opportunity Officer/ Chief Human Resources Office of the Office of Human Resources will assess the individual for a potential conflict of interest, bias, or prejudice. If any complainant and/or a respondent believes that any Equal Opportunity Team Member assigned to the particular report/institutional complaint has a conflict of interest, bias or prejudice, the party must contact the Equal Opportunity Officer/ Chief Human Resources Office of the Office of Human Resources in writing no more than seven (7) days (excluding University holidays) of receiving the Initial Equal Opportunity Team Assignment with an explanation of the Equal Opportunity Team Member's alleged conflict of interest, bias, or prejudice (a "Conflict of Interest Notice"). In the event that the Equal Opportunity Officer/ Chief Human Resources Office of the Office of Human Resources timely receives a Conflict of Interest Notice, the Equal Opportunity Officer/ Chief Human Resources Office of the Office of Human Resources will make any substitutions the Equal Opportunity Officer/ Chief Human Resources Office of the Office of Human Resources deems appropriate.

Similarly, if an assigned Equal Opportunity Team Member believes that the particular report/complaint poses a conflict of interest for the individual or the Equal Opportunity Team Member believes he or she has any sort of bias/prejudice that cannot be set aside, the Equal Opportunity Team Member will contact the Equal Opportunity Officer/ Chief Human Resources Office of the Office of Human Resources immediately and the Equal Opportunity Officer/ Chief Human Resources Office of the Office of Human Resources will make any substitutions the Equal Opportunity Officer/ Chief Human Resources Office CHRO of the Office of Human Resources deems appropriate.

After the Conflict of Interest Notice period has passed, the Equal Opportunity Officer/ Chief Human Resources Office of the Office of Human Resources will send a written "Final Equal Opportunity Team Assignment" to the complainant(s) and respondent(s).

4. **Interviews:** The Equal Opportunity Investigator(s) will conduct interviews of the complainant(s), the respondent(s), and any witnesses identified by those parties. The respondent(s) shall be provided a copy of any written report/institutional complaint or otherwise informed of the substance of any complainant's allegations. Similarly, the complainant(s) shall be provided with a copy of any written response provided by a respondent or otherwise informed of the substance of any respondent's response to the allegations.
5. **Consideration of Evidence by Equal Opportunity Investigator(s):** The Equal Opportunity Investigator(s) will attempt to gather and examine relevant documents or evidence (e.g., law enforcement investigatory records, student and/or personnel files, etc.). Both the complainant and respondent will be asked to provide a list of possible witnesses as well as any written or physical evidence (e.g., text messages, social media postings, emails, photos, medical records, etc.) that they wish to be considered by the Equal Opportunity Investigator(s).

Neither the complainant nor the respondent has a burden of proof. Rather, the University has the burden of proof and the burden of gathering evidence. However, the University's ability to obtain relevant information and evidence will turn on the willingness of the parties and/or witnesses to engage in the investigatory process. And access to medical records or other sensitive or confidential documents can often only be obtained with the person's voluntary, written consent. No party will be restricted in his/her ability to discuss the allegations under investigation or to gather and present

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relevant evidence. Complainants and respondents, as well as their advisors, are entitled to and will be provided an opportunity to inspect and review the same information and evidence. This includes evidence directly related to the allegations that the University may not intend to rely on in determining responsibility as well as any inculpatory or exculpatory evidence whether obtained from a party or other source.

6. ***Review of Evidence by the Parties:*** Complainants and respondents, as well as their advisors, are entitled to and will be provided an opportunity to inspect and review the same information and evidence. This includes any information, evidence, or allegation learned as a result of the Equal Opportunity Investigator(s)'s investigation into the formal complaint.

Prior to completion of the Investigation Report with Determination(s), the Equal Opportunity Investigator(s) will send to each party and the party's advisor, if any, the evidence gathered during the investigation for the party's review. The evidence will be delivered in an electronic format that restricts the parties and advisors from downloading or copying the evidence. The parties will have ten (10) days to submit written responses to the Equal Opportunity Investigator(s) for consideration prior to completion of the Investigation Report with Determination(s).

7. ***Prepare and Distribute an Investigation Report with Determination(s):*** Within twenty-one (21) days after receiving the parties' written responses, if any, the Equal Opportunity Investigator(s) shall prepare and distribute to all parties an Investigation Report with Determination(s). The Equal Opportunity Investigator(s) will use a preponderance of the evidence (i.e., "more likely than not") standard to determine whether or not an alleged policy violation occurred. The Investigation Report with Determination(s) will include (1) a summary of the interviews conducted and the relevant evidence gathered; (2) identification of the policy section(s) alleged to have been violated; (3) a description of the procedural steps taken from the receipt of the complaint through the determination; (4) findings of facts supporting the determination; (5) conclusions regarding the application of the policy section(s) to the factual determinations reached by the Equal Opportunity Investigator(s); (6) a statement of the result and rationale as to each allegation, including a determination regarding responsibility; (7) a recommendation on any discipline or sanctions to be imposed, if any; (8) a recommendation as to remedies provided to the complainant, if any; and (9) the procedures and permissible bases for the parties to appeal. The Equal Opportunity Investigator(s) may consider prior policy violations, among other things, when considering the level of recommended discipline or sanctions. Any determinations contained in the Investigation Report with Determination(s), including recommended sanctions or discipline, are final unless a timely appeal is submitted under this policy. If an appeal is timely submitted, any recommended sanctions or discipline will be stayed until resolution of the appeal process.

Any complainant and respondent has a right to be accompanied by one advisor or support person of the individual's choosing during any interview or meeting with the Equal Opportunity Investigator(s). The advisor or support person is permitted to provide support, not advocate for the party or impede the investigation. All parties will be provided written notice of the date, time, location, participants, and purpose of all interviews or other meetings, with sufficient time for the party to prepare to participate.

Efforts will be made to complete a formal investigation and prepare and distribute the Investigation Report with Determination(s) within sixty (60) days of receiving the initial report/complaint.

## **9. APPEAL**

After the Equal Opportunity Investigator(s) provides the parties with the Investigation Report with Determination(s), the parties will have seven (7) days (excluding University holidays) to submit a written appeal to the assigned Equal Opportunity Appellate Official(s).

The five grounds of appeal include: (1) insufficient evidence to support the determination(s); (2) new evidence that was not reasonably available at the time the determination was made and that could affect the outcome of the matter; (3) procedural irregularity that affected the outcome of the matter; (4) the Equal Opportunity Officer/ Chief Human Resources Office CHRO of the Office of Human Resources and/or the Equal Opportunity Investigator(s) had a 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 (5) the discipline/sanction is substantially disproportionate to the Equal Opportunity Investigator(s)'s determination(s).

If either party timely appeals, the other party will have seven (7) days (excluding University holidays) from receipt of a copy of the appeal to submit a written opposition to the Equal Opportunity Appellate Official(s). Upon receipt of the written opposition or the passing of the timeframe allowed to submit a written opposition, the Equal Opportunity Appellate Official(s) will consider the appeal and will issue a "Decision on Appeal" within fourteen (14) days.

The Equal Opportunity Appellate Official(s) has the authority to determine that appeal criteria has not been met, affirm the determination(s), reverse the determination(s), remand the matter back to the same or a new Equal Opportunity Investigator(s) to consider additional evidence or remedy a procedural error, or alter the recommended discipline/sanctions. Any Decision on Appeal will be simultaneously issued in writing to both parties and is final.

## **10. TIMEFRAMES**

All of the timeframes set forth above may be extended by a showing of good cause. Any party's request for an extension of time must be submitted to the Equal Opportunity Officer/ Chief Human Resources Office CHRO of the Office of Human Resources and may be granted or denied in the Equal Opportunity Officer/CHRO of the Office of Human Resources' sole discretion.

All parties involved will be promptly notified of any time extension or delay and provided the reason(s) for the extension or delay. Good cause may include, but is not limited to, the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

## **11. HUMAN RESOURCES PROCESS FOR COMPLAINTS AGAINST EMPLOYEES**

In situations where the respondent is not a student (i.e. the respondent is an employee or person other than a student over whom the University has significant control), the Equal Opportunity Officer/CHRO of Human Resources may conduct the investigation and issue determinations using some or all of the steps of the informal or formal processes and other resources set forth above, as the Equal Opportunity Officer/CHRO of Human Resources deems appropriate in their sole discretion. The Equal Opportunity Officer/CHRO of Human Resources may delegate some or all of their investigatory and determination responsibilities to another person with proper training subject to the approval by the University's Vice President of Compliance Risk and Legal Affairs.

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## **12. POSSIBLE DISCIPLINE/SANCTION(S)**

If it is determined that an employee of the University has engaged in conduct in violation of this policy, the employee will be promptly disciplined, up to and potentially including termination of employment, depending on the seriousness of the offense and individual circumstances. Possible sanctions and corrective actions include, but are not limited to, discrimination or harassment education, counseling, reassignment, no contact orders, demotion, suspension, non-reappointment, and termination from employment.

If it is determined that a student has engaged in conduct in violation of this policy, the student will be promptly disciplined with penalties up to and including suspension or dismissal from the University. Other sanctions include, but are not limited to, disciplinary warning, disciplinary probation, disciplinary probation with restrictions, no contact orders, fines, restitution, notification to others, educational/work assignment/community service, counseling, loss of privileges, restricted access, room transfer, termination of housing contract, or mandatory withdrawal from University housing.

Where a student or employee has been found to have engaged in conduct in violation of this policy, the University will take appropriate steps to prevent recurrence and to correct discriminatory effects on the complainant, the campus, and others, as necessary.

## **13. KNOWINGLY PROVIDED FALSE INFORMATION**

If it is determined by the University in its sole discretion that any individual involved in an investigation of a potential violation of this policy has deliberately or knowingly provided false information to those administering this policy, the individual will be subject to discipline, up to and including termination of employment or dismissal from the University.

## **14. RIGHT TO FILE CRIMINAL COMPLAINT AND/OR WITH A GOVERNMENT AGENCY**

Nothing in this policy should be construed as impeding or prohibiting an employee or student from pursuing a criminal complaint with the appropriate internal or external law enforcement agency or in filing a complaint with the appropriate external governmental agency. Although an employee or student with a concern or complaint is encouraged to attempt to resolve his/her grievance within this procedure when appropriate, each individual has the right to file a grievance/charge directly with the Department of Education's Office for Civil Rights, the Equal Employment Opportunity Commission, the Ohio Civil Rights Commission, or any other applicable state or federal agency.

Laws and regulations prohibiting discrimination, harassment, or retaliation on the basis of race, color, origin, religion, age, disability, sex, pregnancy, sexual orientation, gender identity, or other legally protected status include, but are not limited to, Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and the Americans With Disabilities Act.

## **15. EDUCATION, TRAINING AND RESOURCES**

The University offers a variety of education, training and support resources to students and employees related to discrimination, harassment, or retaliation on the basis of race, color, origin, religion, age, disability, sex, pregnancy, sexual orientation, gender identity, or other legally protected status. Information about education and training provided by the University can be found in the Sex Discrimination, Sexual Misconduct and Interpersonal Violence Policy and on the University's website (search "discrimination"). Information about additional resources for students and employees related to

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discrimination, harassment, or retaliation on the basis of race, color, origin, religion, age, disability, sex, pregnancy, sexual orientation, gender identity, or other legally protected status can be found in the University's Equal Opportunity and Nondiscrimination Brochure and on the University's website (search "discrimination").