

V. UNIVERSITY POLICIES

SEX DISCRIMINATION, SEXUAL MISCONDUCT AND INTERPERSONAL VIOLENCE POLICY

Mount St. Joseph University (the “University”) is committed to providing an educational environment free from discrimination and harassment on the basis of race, color, origin, religion, age, disability, sex (sexual orientation and gender identity) or any other legally protected status. This policy focuses on incidents of sex discrimination (including sexual harassment and sexual misconduct), domestic violence, dating violence, and stalking. For incidents of discrimination, harassment, or retaliation related to race, color, national origin, religion, age, disability, or other legally protected statuses, please see the University’s Equal Opportunity and Non-Discrimination Policy.

This policy applies to all University community members, including students, prospective students, employees, professors, administrators, visitors, or other third-parties. 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 as well as University-sponsored or University-sanctioned functions taking place outside of those typical settings.

The University expects that all members of its community will help promote a learning environment free from the conduct prohibited under this policy. Any 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.

1. SEX DISCRIMINATION, INCLUDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT

Title IX of the Education Amendments of 1972 prohibits sex discrimination—which includes sexual harassment and other forms of sexual misconduct—in education programs and activities. Educational institutions receiving federal funds must comply with Title IX. If you have experienced sex discrimination, please review this policy for information about your Title IX rights.

Sexual harassment, which includes sexual misconduct, is a form of sex discrimination. Conduct that may constitute sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors and other verbal, electronic, or physical conduct based on sex or of a sexual nature as defined in this policy.

Sexual misconduct includes, but is not necessarily limited to, sexual assault (both nonconsensual intercourse and non-consensual sexual contact), sexual exploitation, and indecent exposure as defined in this policy.

2. INTERPERSONAL VIOLENCE, INCLUDING DOMESTIC VIOLENCE, DATING VIOLENCE AND STALKING

Often times, incidents of sexual misconduct also involve other acts of interpersonal violence including but not limited to domestic violence, dating violence, and stalking as defined in this policy. The University prohibits interpersonal violence such as domestic violence, dating violence, and stalking, regardless of whether it is related to conduct of a sexual nature. If you have experienced interpersonal violence including, but not necessarily limited to, domestic violence, dating violence, and stalking, please review this policy for more information.

This information is part of Mount St. Joseph University’s Student Handbook.

3. 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.

4. TITLE IX COORDINATOR

The University has designated Paige Ellerman as its Title IX Coordinator. Ms. Ellerman can be contacted at (513) 244-4393. The Title IX Coordinator is the individual responsible for responding to inquiries, addressing complaints, coordinating informal resolutions, formal investigations and adjudications, and coordinating compliance with the University's responsibilities under Title IX of the Education Amendments of 1972. Inquiries, issues, or reports/complaints relating to sex discrimination, sexual misconduct, interpersonal violence or retaliation should be directed to the Title IX Coordinator.

5. DEFINITIONS

Sexual Harassment

Sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors and other verbal, electronic, or physical conduct based on sex or of a sexual nature when:

- such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or academic environment; or
- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic achievement or advancement; or
- submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individuals.

Sexual Assault

Sexual assault includes non-consensual sexual intercourse and non-consensual sexual contact.

Non-Consensual Sexual Intercourse

Non-consensual sexual intercourse means any sexual penetration, however slight, with any body part or object, by any individual upon another that is without consent and/or by force or coercion. Sexual penetration includes vaginal or oral penetration by a penis, object, tongue, or finger; and oral copulation (mouth to genital contact or genital to mouth contact).

Non-Consensual Sexual Contact

Non-consensual sexual contact means any intentional sexual touching, however slight, with any body part or object, by any individual upon another that is without consent and/or by force or coercion. Sexual contact includes intentional contact with the breasts, buttocks, groin, or genitals, or touching another with any of these body parts; making another touch you or themselves with or on any of these body parts; and any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth, or other orifice.

These definitions of non-consensual sexual intercourse and non-consensual contact are designed to include, but are not limited to, instances of rape or any other sex offenses included in the FBI's Uniform Crime Reporting Program.

Sexual Exploitation

Sexual exploitation includes taking non-consensual or abusive sexual advantage of another for that individual's own advantage or benefit, or to benefit or advantage anyone other than the individual being

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exploited. Examples of sexual exploitation include, but are not limited to, photographing or recording someone involved in sexual activity or in a state of undress without that person's knowledge or consent; voyeurism; non-consensual streaming or transmitting of images or video of another person involved in sexual activity; or prostituting another person.

Indecent Exposure

Indecent exposure includes the intentional exposure of one's private or intimate parts of the body to another in non-consensual circumstances.

Domestic Violence

Domestic violence includes conduct that would meet the definition of felony or misdemeanor crimes of 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 a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction where the conduct takes place, 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 jurisdiction where the conduct takes place.

Under Ohio Revised Code § 2919.25, domestic violence is defined and prohibited as follows:

- (a) No person shall knowingly cause or attempt to cause physical harm to a family or household member.
- (b) No person shall recklessly cause serious physical harm to a family or household member.
- (c) No person, by threat of force, shall knowingly cause a family or household member to believe that the offender will cause imminent physical harm to the family or household member.

The complete text of Ohio Revised Code §2919.25 is found at <http://codes.ohio.gov/orc/2919.25>.

An individual need not be charged with or convicted of a criminal offense to be found responsible for domestic violence pursuant to this policy.

Dating Violence

Dating violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and; where the existence of the relationship shall be determined based on a consideration of the following factors:

- the length of the relationship;
- other type of relationship; and
- other frequency of interaction between the persons involved in the relationship.

Stalking

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others; or suffer substantial emotional distress. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

Under Ohio Revised Code §2903.211, menacing by stalking is defined and prohibited as follows:

(A)(1) No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or cause mental distress to the other person. In addition to any other basis for the other person's belief that the offender will cause physical harm to the other person or the other person's mental distress, the other person's belief or mental distress may be based on words or conduct of the offender that are directed at or identify a corporation, association, or other organization that employs the other person or to which the other person belongs.

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(A)(2) No person, through the use of any electronic method of remotely transferring information, including, but not limited to, any computer, computer network, computer program, or computer system, shall post a message with purpose to urge or incite another to commit a violation of division (A)(1) of this section.

(A)(3) No person, with a sexual motivation, shall violate division (A) (1) or (2) of this section.

The full text of Ohio Revised Code §2903.211 is found at <http://codes.ohio.gov/orc/2903.211>.

An individual need not be charged with or convicted of a criminal offense to be found responsible for stalking pursuant to this policy.

Consent

Sexual intercourse or sexual contact without consent is a violation of this policy. Consent is permission that is clear, knowing, voluntary, and expressed prior to engaging in and during an act. Consent is active, not passive. Consent requires words and/or actions that demonstrate a voluntary agreement to engage in mutually agreed-upon sexual activity.

- **Both partners must clearly communicate their willingness and permission through mutually understandable words and/or actions.** Consent is a “yes” through words and/or actions, not the absence of the word “no.” Failure to resist sexual advances, silence, and/or prior dating or sexual relationship does not constitute consent. Both partners have the right to revoke their consent at any time during the sexual activity by communicating (verbally or non-verbally) their desire to stop the activity. Consent to one form of sexual contact does not constitute consent to any other form of sexual contact, nor does consent to sexual contact with one person constitute consent to sexual contact with any other person. Additionally, consent to sexual contact on one occasion is not consent to engage in sexual contact on another occasion. There is no requirement that an individual verbally or physically resists unwelcome sexual contact for there to be a violation of this policy.
- **Both partners need to be fully conscious and aware of their actions.** A person is unable to give consent if they are asleep, drugged, intoxicated, unconscious, a minor, mentally or physically impaired, or mentally or physically incapacitated. Signs that a person is intoxicated, incapacitated, or otherwise unable to give consent include, but are not limited to, slurred speech, loss of coordination, passing out, vomiting, and a visual or verbalized feeling of nausea.
- **Both partners must be equally free to act.** The decision to be sexually intimate must be made without coercion or force. Coercion or force includes conduct, intimidation, or express or implied threats of physical or emotional harm that would reasonably place an individual in fear of actual, immediate, or future harm and that is used to persuade or compel someone to engage in sexual conduct.

6. 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 who has witnessed or become aware of any conduct prohibited by this policy should 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 Title IX Coordinator, 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 a 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

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to investigate and/or take action in response to that conduct, with or without the cooperation of the alleged victim.

Crimes (or any conduct prohibited by this policy which a student 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 Sex Discrimination, Sexual Misconduct, Interpersonal Violence, or Retaliation

Any student or employee who has been the victim of, witnessed, or become aware of sex discrimination, sexual misconduct, interpersonal violence, or retaliation 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
 - Paige Ellerman, Title IX Coordinator, (513) 244-4393, or submit a report/complaint Title IX Reporting.

A student or employee may file a criminal complaint, an institutional complaint, or both.

Anonymous Reporting

Reports of violations of this policy can be made anonymously by calling or texting (513) 244-TIPS or emailing 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.

Written Statement of Rights

Any employee or student bringing forth a complaint of sex discrimination, sexual misconduct, interpersonal violence or retaliation 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 sex discrimination, sexual misconduct, interpersonal violence or retaliation can also be made to any of the University's other designated Campus Security Authorities (CSAs). A list of the designated CSAs can be found at CSA Contact List.

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 Title IX Coordinator, Paige Ellerman (513) 244-4393.

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

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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 right to receive information maintained by the University as an education record as defined by FERPA.

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 is necessary to provide accommodations, interim measures, and/or protective measures. For allegations of conduct related to sex discrimination, sexual misconduct, interpersonal violence or retaliation, the Title IX Coordinator will determine what information about a complainant should be disclosed and to whom this information will be disclosed.

Unless extenuating circumstances exist, the complainant will be informed before sharing personally identifying information that the University believes is necessary to provide a safe and non-discriminatory environment, to provide an accommodation, and/or to provide any protective 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 MSJ Police Department.

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

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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.

A complainant is encouraged to make a report even if the complainant 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. Support and resources are always available to a complainant 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.

Interim Measures

Interim measures, also known as accommodations, may be available upon receipt of a report of conduct allegedly in violation of this policy. Interim measures are typically put in place in order to stop and prevent the recurrence of behavior and/or improve the impact of behavior.

Interim measures include, but are not necessarily limited to, "no contact" orders, transportation assistance or security escorts, and/or adjustments in employment, academic schedule, housing, and extracurricular arrangements and activities. Such steps will be designed to minimize the impact of the alleged conduct on the employment and/or educational programs of the parties involved. Interim measures connected to reports of sex discrimination, sexual misconduct, interpersonal violence or retaliation are typically determined by the Title IX Coordinator.

Individuals requesting additional interim measures or experiencing difficulty with interim measures that have been approved should immediately contact the Title IX Coordinator. Interim measures will be available to a complainant regardless of whether the complainant chooses to participate in a hearing against a respondent or whether the complainant chooses to report the incident to law enforcement. Interim measures will also be available to any respondent. To the extent possible, any interim measures that are provided will be confidential.

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 other individuals. 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 Title IX Coordinator for more information about these protective measures, including obtaining 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

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V. University Policies

REV. 8.20.19

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 because of potential consequences for their own conduct. An individual that reports conduct prohibited by this policy, either as a reporting party or 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.

7. INVESTIGATORY PROCEDURES

Criminal Complaints

Ohio state and/or federal law will apply and the matter will follow criminal processes through a police investigation, a referral to the Hamilton County Prosecutor's Office, and/or the criminal court system for resolution.

Institutional Complaints

The University's investigation of reports/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.

All reports/complaints of conduct potentially in violation of this policy involving students and employees that are reported to the MSJ Police Department will also be referred to the Title IX Coordinator for a determination into whether it should be investigated under this policy.

Informal Resolution of Institutional Complaints

In appropriate circumstances, and with the approval of the complainant and respondent, the Title IX Coordinator may attempt informal methods to resolve a report of an alleged policy violation without the need for additional proceedings. When informal resolution of an institutional complaint is pursued, the Title IX Coordinator 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. Effort will be made to resolve an institutional complaint within sixty (60) days of the filing of a report. The objective of the informal process will be to resolve the complaint to the mutual satisfaction of the parties involved, if possible.

Formal Investigation 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/complaint, formal investigations under this policy will typically involve the following:

1. Initial Review: Preliminary review of any report/complaint by the Title IX Coordinator to determine whether, on its face, a violation of the policy is alleged and a formal investigation is needed.
2. Title IX Team Assignment: Formal investigations are coordinated by the Title IX Coordinator. The Title IX Coordinator will assign University employees who are trained to conduct each stage of the formal investigation process. The Title IX Team Members consist of University employees trained in the areas of Title IX investigations, probable cause determinations, adjudication processes, appeal processes and the University's policy.

Prior to the start of a formal investigation, the Title IX Coordinator will send a written "Initial Title IX Team Assignment" to the complainant(s) and respondent(s), which will include the names of the Title IX Team Members assigned to the particular report/ complaint and each Title IX Team Member's assigned role, as follows:

- Title IX Investigator(s) (more than one member may be assigned)
- Probable Cause Official
- Adjudication Hearing Panel (three members)
- Title IX Appellate Official
- Alternate (one member, in the event that any assigned Title IX Team Member becomes unavailable)

If any complainant and/or a respondent believes that any Title IX Team Member assigned to the particular report/complaint has a conflict of interest, the party must contact the Title IX Coordinator in writing no more than seven (7) days (excluding University holidays) of receiving the Initial Title IX Team Assignment with an explanation of the Title IX Team Member's alleged conflict of interest (a "Conflict of Interest Notice"). In the event that the Title IX Coordinator timely receives a Conflict of Interest Notice, the Title IX Coordinator will make any substitutions the Title IX Coordinator deems appropriate.

Similarly, if an assigned Title IX Team Member believes that the particular report/ complaint poses a conflict of interest for the individual, the Title IX Team Member will contact the Title IX Coordinator immediately and the Title IX Coordinator will make any substitutions the Title IX Coordinator deems appropriate.

After the Conflict of Interest Notice period has passed, the Title IX Coordinator will send a written "Final Title IX Team Assignment" to the complainant(s) and respondent(s).

1. Title IX Investigator(s) Notification: The Title IX Investigator(s) will send written notification to any complainant and the respondent that the formal investigation has commenced, along with the relevant conduct provision(s) at issue and the potential sanctions and disciplinary actions if a violation of the policy is found.
2. Interviews: The Title IX 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/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.

3. Consideration of Evidence by Title IX Investigator(s): The Title IX Investigator(s) will 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 Title IX Investigator(s).
4. Prepare Investigation Report: The Title IX Investigator(s) shall prepare an Investigation Report complete with a summary of interviews, relevant documents, and next steps.
5. Distribute Investigation Report: The Title IX Investigator(s) shall provide any complainant and respondent with access to the Investigation Report as well as any non-confidential documents or evidence gathered by the Title IX Investigator(s) that were used to prepare the Investigation Report to the parties.

Any complainant and respondent has a right to be accompanied by one advisor or support person of the individual's choosing during any meeting with the Title IX Investigator(s). That advisor or support person may not be someone who is a potential witness in the investigation. The advisor or support person is permitted to provide support, not advocate for the party or impede the investigation.

Efforts will be made to complete a formal investigation within 60 days of receiving the initial report/complaint. If the University is unable to complete a formal investigation within 60 days of receipt of a report/complaint, the Title IX Coordinator will notify any complainant and any respondent in writing of the need for additional time, the reason(s) that additional time is needed, and an approximate date for completion of the formal investigation.

8. ADJUDICATION PROCEDURES

Probable Cause Determination

Upon completion of the Investigation Report, the Title IX Investigator(s) will deliver the Investigation Report as well as any non-confidential documents or evidence gathered by the Title IX Investigator(s) that were used to prepare the Investigation Report to the assigned Probable Cause Official.

Within seven (7) days (excluding University holidays) of receiving the Investigation Report, the Probable Cause Official will determine whether there is probable cause to believe that a violation of this policy occurred. In the event the Probable Cause Official determines that there is probable cause to believe that a violation of this policy occurred, the Probable Cause Official will issue a "Notice of Violation" in writing to any respondent and provide a copy of the Notice of Violation to any complainant. In the event that the Probable Cause Official does not find that there is probable cause to believe that a violation of this policy occurred, the Probable Cause Official will issue a "Notice of No Violation" in writing to any complainant and provide a copy of the Notice of No Violation to any respondent.

Request for Adjudication Hearing

If probable cause is found and a Notice of Violation is issued, a respondent will have seven (7) days (excluding University holidays) to request an Adjudication Hearing. A request for an Adjudication Hearing must be made in writing and timely delivered to the Title IX Coordinator. If a respondent does not request an Adjudication Hearing within seven (7) days (excluding University holidays) of receiving a

Notice of Violation or otherwise takes responsibility for the alleged conduct, the matter will proceed for consideration as to the discipline/sanction(s) to be issued by the Probable Cause Official.

If probable cause is not found and a Notice of No Violation is issued, a complainant will have seven (7) days (excluding University holidays) to request an Adjudication Hearing. A request for an Adjudication Hearing following a Notice of No Violation must be in writing and timely delivered to the Title IX Coordinator. If a complainant does not timely request an Adjudication Hearing following a Notice of No Violation or advises the Title IX Coordinator in writing that the complainant will not request such a hearing, the matter will be considered closed.

Adjudication Hearing

Within seven (7) days (excluding University holidays) of receiving a timely request for an Adjudication Hearing from a respondent, the Title IX Coordinator will contact all parties in writing to notify them that (i) the three (3) previously assigned Adjudication Hearing Panel members will preside over the Adjudication Hearing, and (ii) to offer all parties the opportunity to request one (1) pre-hearing meeting with the Title IX Coordinator.

Pre-hearing meetings are not mandatory and are designed to allow the parties to ask questions regarding the Adjudication Hearing as well as to again review the Investigation Report or any non-confidential documents or evidence gathered and used to prepare the Investigation Report. Each party is permitted to be accompanied by their support person or advisor during any pre-hearing meeting.

After all requested pre-hearing meetings conclude (or after they are declined), the Title IX Coordinator will notify the parties of the date, time, and location of the Adjudication Hearing. The parties will receive at least ten (10) days' notice (excluding University holidays) of the Adjudication Hearing.

At least five (5) days (excluding University holidays) prior to the scheduled Adjudication Hearing, each party must identify in writing to the Title IX Coordinator any and all witnesses and evidence the party intends to present at the Adjudication Hearing. Unless extenuating circumstances exist as determined by the Title IX Coordinator, witnesses and evidence that were not disclosed or identified to the Title IX Investigator may not be presented at the Adjudication Hearing. The Title IX Coordinator will promptly notify each party of the other party's list of witnesses and evidence for the Adjudication Hearing.

Adjudication Hearings are closed to the public. Each party is permitted to have one support person or advisor present. The support person or advisor is not permitted to participate as a vocal advocate during the Adjudication Hearing. The Title IX Investigator(s) shall be present at the hearing.

At the Adjudication Hearing, each party will be permitted to give an opening statement. Each party will then be permitted to present evidence and/or witnesses. A party will be permitted to pose questions of the other party and/or the other party's witnesses, but the questions must be first submitted to the Adjudication Hearing Panel and the Adjudication Hearing Panel will ask the questions on the party's behalf. The Adjudication Hearing Panel retains discretion to refrain from asking questions it believes are irrelevant or unnecessary and/or to exclude the presentation of any witnesses or evidence. For example, information about a party's prior sexual history with persons other than the other party and information about a party's mental health diagnosis/treatment may be excluded. Similarly, evidence of a party's past policy violations and/or criminal history may be excluded. Each party will be permitted to make a closing statement.

Within seven (7) days (excluding University holidays) of the conclusion of the Adjudication Hearing, the Adjudication Hearing Panel will issue a written "Hearing Panel Decision."

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The Adjudication Hearing Panel 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 decision need not be unanimous. The Adjudication Hearing Panel will also issue a written recommendation on any discipline or sanctions to be imposed in the Hearing Panel Decision, if applicable. The Adjudication Hearing Panel may consider prior policy violations, among other things, when considering the level of recommended discipline.

The Title IX Coordinator will promptly provide written notice to the parties of the Hearing Panel Decision. The Title IX Coordinator will also notify the parties of their right to appeal the Hearing Panel Decision and, if applicable, the sanctions or disciplinary measures recommended. The decisions contained in a Hearing Panel Decision, including recommended sanctions or disciplinary action, is final unless a Hearing Panel Decision is timely appealed under this policy. If an appeal is timely submitted, any recommended sanctions or discipline will be stayed until resolution of the appeal process.

Appeal of Hearing Panel Decision

After the Title IX Coordinator notifies the parties of the Hearing Panel Decision, parties will have seven (7) days (excluding University holidays) to submit a “Written Appeal of Hearing Panel Decision” to the previously assigned Title IX Appellate Official. The only bases for a party to appeal a Hearing Panel Decision are: (1) a procedural error that has significantly impacted the outcome of the Adjudication Hearing; (2) the introduction of previously unavailable relevant evidence which would have significantly impacted the outcome of the Adjudication Hearing; or (3) where the discipline/sanction is substantially disproportionate to the Adjudication Hearing Panel’s findings.

If either party timely appeals a Hearing Panel Decision, 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 Appeal” to the Title IX Appellate Official. Upon receipt of the Written Opposition to Appeal or the passing of the timeframe allowed to submit a Written Opposition to Appeal, the Title IX Appellate Official will consider the appeal and will promptly issue a “Decision on Appeal.” The Title IX Appellate Official has the authority to determine that appeal criteria has not been met, to affirm the Hearing Panel Decision, reverse the Hearing Panel Decision, remand the matter back to the Adjudication Hearing Panel to consider additional evidence or remedy a procedural error, or alter the discipline/sanctions that were recommended in the Hearing Panel Decision. Any Decision on Appeal will be issued in writing to both parties and is final.

All of the timeframes set forth in the Adjudication Procedures may be extended by a showing of good cause. Any request for an extension of time must be submitted to the Title IX Coordinator and may be granted or denied in the Title IX Coordinator’s sole discretion. All parties involved will be promptly notified if a time extension has been granted.

9. 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

This information is part of Mount St. Joseph University’s Student Handbook.

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.

10. KNOWINGLY 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.

11. 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 Ohio Civil Rights Commission, or any other applicable state or federal agency. Laws and regulations prohibiting sex discrimination, sexual misconduct, interpersonal violence, and retaliation in institutions of higher education include Title VI and Title VII of the Civil Rights Act of 1964, and Title IX of the Education Amendments of 1972. The Campus Sexual Violence Elimination Act (SaVE Act) amends the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (known as the Clery Act).

12. EDUCATION, TRAINING AND RESOURCES

The University offers a variety of education, training and support resources to students and employees related to sex discrimination, interpersonal violence and retaliation. Information about education and training provided by the University can be found in the Sex Discrimination, Sexual Misconduct and Interpersonal Violence Policy. Information about additional resources for students and employees related to sex discrimination, sexual misconduct, interpersonal violence and retaliation can be found in the Sexual Misconduct Brochure.

If your report/complaint involves discriminatory, harassing, or retaliatory conduct based on race, color, national origin, religion, age, disability, or another legally protected status, please refer to the University's Equal Opportunity and Non-Discrimination Policy. If your report/complaint relates to student disability accommodations, please refer to the University's Student Accommodation Grievance Procedure.