

1. STATEMENT OF POLICY:

Mount Saint Mary's University ("MSMU") recognizes the significant, unacceptable and nationwide existence of Sexual Harassment on college campuses. MSMU is dedicated to the prevention of such misconduct and to providing a caring, supportive and effective response when such misconduct occurs. Accordingly, MSMU encourages students, faculty and staff members to report instances of sexual harassment so that the University can take appropriate responsive action.

Title IX of the Education Amendments of 1972, and the regulations regarding Title IX released by the Department of Education in May of 2020 ("Title IX 2020 Regulations" or "Title IX") is a federal law that prohibits discrimination on the basis of sex in education, programs and activities and employment. Under the Title IX 2020 Regulations, discrimination on the basis of sex includes unwelcome conduct of a sexual nature that is severe, pervasive and objectionably offensive to the extent of denying an individual equal access to educational program or activity or employment, as well as Sexual Assault, Dating Violence, Domestic Violence and Stalking.

In instances where a faculty or staff member is reported to have engaged in sexual harassment or misconduct that does not meet the definition of Sexual Harassment under the Title IX 2020 Regulations, the incident may be adjudicated under MSMU's Unlawful Harassment, Discrimination and Retaliation Complaint Process and policy.

The University has created this Faculty/Staff Title IX Policy pursuant to the Title IX 2020 Regulations to assist and respond to complaints of Sexual Harassment under Title IX. Students, faculty and staff should report all forms of Sexual Harassment and Sexual Assault, as well as Dating Violence, Domestic Violence and Stalking by filing a report with Campus Security, at Chalon by calling 310.954.4123 OR at Doheny by calling 213.477.2502, or with the Title IX Coordinator regardless of whether the student, faculty or staff member believes the misconduct meets the definition of Sexual Harassment under Title IX. All reports of Sexual Harassment made under this policy will be shared promptly with the Title IX Coordinator, if not directly reported to the Title IX Coordinator.

If you have any questions regarding Title IX or reporting sexual misconduct, please contact MSMU's Interim Title IX Coordinator, Megan Staudenraus, who can be reached at **213.477.2803** or TitleIX@msmu.edu.

2. DEFINITIONS:

COMPLAINANT

For the purpose of Reports and Formal Complaints filed under Title IX, a **Complainant** is the individual who is alleged to be the victim of conduct that may constitute Title IX Sexual Harassment.

CONSENT

For the purpose of this policy, **Consent** is defined as the unambiguous and willing participation or cooperation in act, behavior or attitude that is commonly understood to be consistent with the exercise of free will. It is the responsibility of each person involved in the sexual activity to ensure that s/he/they has/have the affirmative Consent of the other(s) to engage in the sexual activity. Consent requires participants who are lawful adults, fully conscious, equally free and legally competent to act, have clearly communicated their willingness,

cooperation or permission to participate in the specific sexual activity engaged in, are positive and clear about their desires and are able to cease ongoing consensual activity at any time.

Refusal to Consent does not have to be verbal; it can be expressed with clear gestures, body language or attitude. Lack of protest or resistance does not mean Consent, nor does silence mean Consent. Prior sexual history between the Complainant and Respondent, by itself, does not constitute continuing Consent nor consent to new or additional sexual activity, nor does consenting to sexual activity with one person imply Consent to sexual activity with another person.

1. Consent is not freely given if:

- a. It is obtained through the use of force, through the fear of or the threat of force, through the abuse of a power position over another (such as employment status or position within an organization) or by kidnap; or
- b. A reasonable person, in the position of the alleged perpetrator at the time the alleged conduct occurred, should have known that the other person was unable to give Consent for any of the following reasons:
 - i. The individual is unable to make an informed decision as a result of the use of alcohol, drugs or other substances (including, but not limited to, predatory drugs or prescribed medications); or
 - ii. The individual is unable to consciously respond for whatever reason including lack of consciousness, sleep, illness or shock; or
 - iii. The individual is under the age of 18 and therefore legally incapable of giving Consent; or
 - iv. The individual is known by reason of impairment, mental condition or developmental or physical disability to be reasonably unable to Consent.
 - v. The individual has acted or spoken in a manner that expresses a lack of Consent or a refusal to Consent.

2. The following are invalid excuses for failing to obtain affirmative Consent from the Complainant:

- a. The Respondent's belief in affirmative Consent arose from the intoxication or recklessness of the Respondent; or
- b. The Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain whether the Complainant affirmatively consented.

DATING VIOLENCE

For the purpose of this policy, **Dating Violence** is defined as violence committed by a person –

- (A) who is or has been in a social relationship of a romantic or intimate nature with the victim and
- (B) where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - (i) The length of the relationship.
 - (ii) The type of relationship.
 - (iii) The frequency of interaction between the persons involved in the relationship.

DOMESTIC VIOLENCE

For the purpose of this policy, **Domestic Violence** is defined as a felony or misdemeanor crime 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 receiving grant monies, 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.

EDUCATIONAL PROGRAM or ACTIVITY

For the purpose of Formal Complaints filed under Title IX, **Education Program or Activity**, is defined as locations, events or circumstances over which MSMU has substantial control over both the Respondent and the context in which the Title IX Sexual Harassment occurs.

SEXUAL ASSAULT

For the purpose of this policy, **Sexual Assault**, is defined as engaging in sexual intercourse, or any of the sexual activities listed below, with another person without that person's Consent. Sexual Assault includes, but is not limited to, rape, sexual battery, anal intercourse, oral copulation or penetration of a body cavity by a foreign object. Sexual intercourse includes the penetration, however slight, of the vagina or anus with any object or body part and of the mouth with a body part and/or object in a sexual manner.

SEXUAL HARASSMENT

For the purpose of Formal Complaints filed under **Title IX**, **Title IX Sexual Harassment** is defined as unwelcome conduct by a faculty or staff member conditioning the provision of an educational aid, benefit or service on an individual's participation in unwelcome sexual conduct; or unwelcome conduct against a person in the United States, determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to an MSMU education program or activity or employment.

STALKING

For purposes of this policy, **Stalking** is defined as engaging in a course of conduct directed at a specific person(s) that would cause a reasonable person under similar circumstances and with similar identities to the Complainant to fear for their safety or the safety of others; or suffer substantial emotional distress. Unwanted conduct, typically of a sexual nature, directed at another person, including by electronic means.

FORMAL COMPLAINT

For the purpose of this policy, **Formal Complaint** is defined as a document filed by a Complainant or signed by the Title IX Coordinator alleging Title IX Sexual Harassment against a Respondent and requesting that MSMU investigate the allegation of Title IX Sexual Harassment. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in an education program or an MSMU sponsored activity, or be employed by the University. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, by electronic mail, or through Campus Security's the [online Title IX Reporting form](#). Campus Security will promptly notify the Title IX Coordinator when they receive a report of conduct that may constitute Title IX Sexual Harassment.

DOCUMENT FILED BY A COMPLAINANT

The term "**document filed by a Complainant**" is defined as a document or electronic submission that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party to the case.

For the purpose of this policy, **Preponderance of the Evidence** means such evidence as when weighed with that opposed to it has more convincing force and the greater probability of truth.

RESPONDENT

For the purpose of *Formal Complaints filed under Title IX* in regard to this policy, **Respondent** is defined as an individual who has been reported to be the perpetrator of conduct that could constitute Title IX Sexual Harassment.

REASONABLY PROMPT TIME FRAME

For the purpose of this policy, **Reasonably Prompt Time Frame** is defined as the amount of time necessary for the Title IX Coordinator to file the Formal Complaint; Title IX Investigator(s) to schedule and conduct the relevant and necessary interviews, so as to put together a comprehensive investigative report that includes inculpatory and exculpatory evidence; the time needed to schedule and meet with the Complainant, Respondent, Witnesses, and Advisors to present the evidence and investigation report to them and explain the Title IX hearing process; to give the Complainant, Respondent, Witnesses, and Advisors seven business days to review and respond to the evidence and investigative report; to schedule and conduct the live hearing; and to write the final decision letter. The same time frame applies to the appeals process as well as the informal resolution process. In normal circumstances and assuming timely cooperation from the parties and witnesses, University staff will use their best efforts to complete this process within 120 days.

While MSMU strives to make decisions as quickly as possible, given the sensitivity of the allegations at hand, MSMU recognizes that good cause delays may occur. Good cause delays include but are not limited to the following: 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. MSMU will communicate in writing to the Complainant, Respondent and relevant participants, if a good cause delay occurs.

PARTY or PARTIES

For purposes of this policy, **Party** or **Parties** is defined as the singular term "Party" can refer to either the Complainant or the Respondent. The collective term "Parties" refers to both the Complainant(s) and Respondent(s), collectively.

ADVISOR

For purposes of this policy, **Advisor** is defined as an individual chosen by a Party or appointed by the University to accompany the Party to meetings related to the resolution process, to advise the Party on that process, and to conduct the cross-examination at any hearing.

INVESTIGATOR

For purposes of this policy, **Investigator** is defined as the individual(s) assigned by the University to gather facts about an alleged violation of this Policy, assess relevance and credibility, analyze the evidence, and compile the information into an investigative report and file of directly-related evidence.

HEARING PANEL

For purposes of this policy, **Hearing Panel** is defined as a group consisting of three trained members with a minimum of 1 faculty or 1 staff who have the decision-making and sanctioning authority within the University Formal Complaint Process, outlined below. The Hearing Panel is appointed by the Title IX Coordinator or Deputy Title IX Coordinator for HR designee.

RESPONSIBLE EMPLOYEE

For the purpose of this policy, **Responsible Employee** applies to all University employees, including staff, faculty, and student workers, with the exception of the Confidential Resources listed below, are considered "Responsible Employees." Responsible Employees must immediately report actual or suspected sexual harassment under this Policy. However, a Responsible Employee who is themselves a target of harassment or

other misconduct under this Policy is not required to report their own experience, although they are encouraged to do so.

Employees must also promptly share all details of behaviors prohibited under this Policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party. Complainants and others should be aware that any information they share with non-confidential Responsible Employees must be reported under this Policy. Complainants and others cannot report information “off the record” to non-confidential Responsible Employees, and non-confidential Responsible Employees cannot honor the request of a Complainant or third-party not to report potentially prohibited behavior.

When a Responsible Employee engages in harassment or other violations of this Policy, they have a duty to report their own misconduct. The University is not on notice of a potential violation of this Title IX – Sexual Harassment Policy when an alleged harasser is also a Responsible Employee, unless the alleged harasser or another person does in fact report the misconduct.

Failure of a Responsible Employee to report an incident of sexual harassment of which they become aware is a violation of University Policy and can be grounds for disciplinary action, up to and including termination.

CONFIDENTIAL RESOURCES

For the purpose of this policy, **Confidential Resources** are available to individuals who would like to discuss the details of a sexual harassment incident with someone, but do not want the incident reported to the University and want the incident to be kept confidential. The Complainant may speak with the following Confidential Resources:

- **Licensed professional counselors and other medical providers;**
- **Local rape crisis counselors;**
- **Domestic violence resources;**
- **Local or state assistance agencies;**
- **Clergy/Chaplains;**
- **Attorneys who are not University employees;**
- **Student Health Services;**
- **Student Counseling and Psychological Services; and/or**

RETALIATION

For the purpose of this policy, **Retaliation** is defined as adverse, non-permitted action taken by an individual or a third party against a person who Reports a violation of this policy, assists someone with a Report of a violation of this policy or participates in any manner in an investigation or resolution of a Report of a violation of this policy. Retaliation may, among other non-permitted conduct or behaviors, include threats, intimidation, coercion, harassment, spreading negative information about an individual, exclusions from academic and non-academic programs and/or adverse actions related to employment.

REPORT

For the purpose of this policy, **Report**, is defined as an allegation of Title IX Sexual Harassment that is brought to the attention of the Title IX Coordinator by either the individual who experienced the Title IX Sexual Harassment or someone other than the person who experienced the Sexual Harassment. A Report becomes a Formal Complaint when it is signed by either the Complainant or the Title IX Coordinator.

COURSE OF CONDUCT

For the purposes of this definition **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.

SUBSTANTIAL EMOTIONAL DISTRESS

For the purposes of this definition **substantial emotional distress** means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

SUPPORTIVE MEASURES

For the purpose of this policy, **Supportive Measures** is defined as non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or 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 MSMU's education program or activity or employment, without unreasonably burdening the other party, including measures designed to protect the safety of all parties, MSMU's educational or work environment, and/or deter Title IX Sexual Harassment.

Examples of Supportive Measures include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services;
- Providing Employee Assistance Program (EAP) resources and access services;
- Referral to community-based service providers;
- Visa and immigration consultation
- Student financial aid counseling;
- Education to the institutional community or community subgroup(s);
- Altering campus housing assignment(s);
- Altering work arrangements for employees or student-employees;
- Safety planning;
- Providing campus safety escorts;
- Providing transportation accommodations;
- Implementing contact limitations (no contact orders) between the parties;
- Academic support, extensions of deadlines, or other course/program-related adjustments;
- Timely warnings;
- Class schedule modifications, withdrawals, or leaves of absence;
- Increased security and monitoring of certain areas of the campus; and
- Any other actions deemed appropriate by the Title IX Coordinator or her designee.

TITLE IX COORDINATOR

For the purpose of this policy, **Title IX Coordinator** is defined as MSMU's authorized employee who coordinates the University's efforts to comply with its responsibilities under Title IX, including, but not limited to, receiving Reports of Title IX Sexual Harassment. To file a Report, or to ask any questions about Title IX, please contact MSMU's Interim Title IX Coordinator, Megan Staudenraus, who can be reached at **213.477.2803** or TitleIX@msmu.edu.

Deputy Title IX Coordinators include:

1. **Title IX Deputy/Associate Provost**
Contact: Michele Starkey
Phone: (310) 954-4086
Email: mstarkey@msmu.edu

2. Interim Title IX Deputy/Assistant Director of Human Resources

Contact: Akosua Amporful
Phone: (310) 954-4036
Email: aamporful@msmu.edu

3. Title IX Deputy/Associate Dean for Student Life and Leadership

Contact: Chinako Belanger
Phone: (310) 954-4350
Email: cbelanger@msmu.edu

3. POLICIES/PROCEDURES:

A. Title IX Law

Title IX is a federal law that prohibits discrimination on the basis of sex in education, programs and activities and employment.

MSMU does not discriminate on the basis of sex. MSMU encourages prompt reporting of Title IX Sexual Harassment. Under Title IX, MSMU has a responsibility to respond promptly and equitably to address Title IX Sexual Harassment. Once MSMU has actual knowledge of a Report of Title IX Sexual Harassment, MSMU will take immediate action to eliminate the Title IX Sexual Harassment, MSMU will move to provide support and resources to the Complainant and, in the instance of a Formal Complaint being filed, MSMU will provide supportive resources to the Respondent, provide an equitable investigation and hearing process, including offering supportive resources to the Respondent, intended to restore equal access to educational program or activity or employment, for all involved participants.

If you believe that MSMU does not respond appropriately to your allegations of Title IX Sexual Harassment as defined by Title IX after you have filed a Report with the Title IX Coordinator or designee or gone through the hearing process, you have the option to file a complaint with the Office for Civil Rights.

1. You may file a complaint:

- a. In person: via telephone 800.421.3481; or
- b. Online: via e-mail: OCR@ed.gov; or
- c. By mail, write letter to:

U.S. Department of Education Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, S.W.
Washington, D.C. 20202-1100

2. For more information about filing a complaint please visit:

<https://www2.ed.gov/about/offices/list/ocr/complaintintro.html>

B. Complainant and Respondent Rights

In accordance with Title IX, MSMU has instituted a hearing process that is intended to be fair and equitable to both the Complainant and Respondent. In observance of that goal of equity, both Complainants and Respondents in Title IX Sexual Harassment cases have the right to:

1. Access to an Advisor, if they do not have one of their own choosing, to assist with the hearing process (in particular cross-examination during a hearing). Complainants and Respondents may select the Advisor of their choice, regardless of family relationship or lack of affiliation to the University;
2. Receive a written notification of available on-and off-campus counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid (where applicable) and other services available as well as notification of the procedures for institutional disciplinary action and their rights and options as defined in Title IX Sexual Harassment cases;
3. Request and receive supportive measures as approved by the Dean of Students (when students are involved) in collaboration with the Title IX Coordinator or regarding non-students as approved by management in collaboration with the Title IX Coordinator;
4. File a Report with Campus Security or Title IX Coordinator;
5. File a police report and take legal action separate from and/or in addition to filing a Title IX Sexual Harassment Report;
6. Notice, in writing, that a Formal Complaint has been filed;
7. Present material and/or expert witnesses;
8. Have their Advisor cross-examine the opposing party and any witnesses during a Title IX hearing to determine credibility of information;
9. Be informed of the disciplinary finding (violation or no violation) as well as the reasoning behind the decision in writing; and
10. Appeal rights as outlined in this policy, Section E.

C. Reporting a Title IX Complaint

Choosing to Report a Title IX complaint takes bravery and MSMU encourages all students, faculty and staff to report Title IX Sexual Harassment (including Sexual Assault), Dating Violence, Domestic Violence or Stalking, regardless of the amount of time that has passed since the alleged misconduct occurred.

MSMU provides Supportive Measures to every Complainant and Respondent, regardless of whether a Formal Complaint is ever filed and regardless whether a Complainant or Respondent agrees to be interviewed by the Title IX Investigator.

How to File a Report

If you believe you have experienced Title IX Sexual Harassment, you are encouraged to file a report with Campus Security, or the Title IX Coordinator or designee. Any person may report sex discrimination, including Title IX Sexual Harassment, regardless of whether or not the person Reporting is the person alleged to be the victim of the conduct that could constitute sex discrimination or Title IX Sexual Harassment.

Reporting to the Title IX Coordinator

Reports may be filed with the Title IX Coordinator in person, by mail, by telephone or by electronic mail. MSMU's Interim Title IX Coordinator, Megan Staudenraus, can be reached:

- By phone: **213.477.2803**;
- By email: TitleIX@msmu.edu;
- [Online Report Form](#)
- By mail, send letter to:

Title IX Coordinator
Mount Saint Mary's University
Doheny Campus, 10 Chester Place, Los Angeles, CA 90007

- To file an in-person complaint by appointment only, contact the Office of Title IX at TitleIX@msmu.edu

Reporting to the Campus Security

Reports may be filed with Campus Security in person, by mail, or by telephone. The Campus Security can be reached:

- By phone: 310.954.4123 (Chalon) or 213.477.2502 (Doheny);
- By mail, send letter to:

Office of Campus Security
Mount Saint Mary's University
Doheny Campus, 10 Chester Place, Los Angeles, CA 90007

- To file an in-person complaint, Campus Security is located at the Chalon and Doheny Guard Stations at the entrance of campus.

Reports may be made at any time, including during non-business hours, by using the telephone number or electronic mail address (if applicable), or by mail to the office address listed above for the Title IX Coordinator or Campus Security. Campus Security will promptly notify the Title IX Coordinator when it receives a report of conduct that may constitute Title IX Sexual Harassment.

Once a Report is received, the Title IX Coordinator, or designee, will explain to the Complainant the process for filing a Formal Complaint, as well as discuss the availability of Supportive Measures (regardless of whether the Complainant chooses to file a Formal Complaint). A complaint becomes a Formal Complaint once the Complainant or, in some instances, the Title IX Coordinator signs the complaint.

If the Complainant chooses not to file a Formal Complaint, they may still receive Supportive Measures, and they retain the right to revisit filing a Formal Complaint at a later date.

Supportive Measures

Complainants and/or Respondents are entitled to receive Supportive Measures, including Complainants who opt not to file a Formal Complaint. Supportive Measures will be designed and implemented in a manner intended to achieve their purpose while at the same time limiting, to the extent practicable, any adverse effect to the Complainant's and/or Respondent's educational program or activity or the terms and conditions of employment.

Supportive Measures provided to either the Complainant or Respondent are kept private, to the extent that maintaining privacy does not impair MSMU's ability to provide the Supportive Measures. Supportive Measures may include, but are not limited to, counseling, academic, residential, transportation and/or employment accommodations, as well as mutual restrictions on contact between the Complaint and Respondent. Supportive Measures can extend through the pendency of hearing procedures and potentially beyond, as necessary.

Any such Supportive Measure will not be referred to or offered as evidence at the hearing on the underlying Formal Complaint.

The Title IX Coordinator, or designee, will assist faculty and staff Complainants and Respondents (if a Respondent has been identified). Complainants will be provided this assistance regardless of whether they file a Formal Complaint or participate in any hearing process.

When an allegation of Title IX Sexual Harassment is brought to the attention of MSMU, the University will assign an Athenian Resource Coordinator (ARC) to a student Complainant pursuant to the Student-on-Student and Faculty/Staff on Student Title IX Policy. The Athenian Resource Coordinator will assist a student Complainant in identifying University and external resources and facilitating Supportive Measures. Complainants will be assigned an Athenian Resource Coordinator regardless of whether they file a Formal Complaint or participate in any hearing process.

The role of the Title IX Coordinator (or designee)/ Athenian Resource Coordinator herein is to:

- a. Provide information in writing, as appropriate, regarding resources on and off campus such as: Counseling and Psychological Services (“CPS”), Student Health Services (“SHS”), Residence Life, Employee Assistance Program, Human Resources, Campus Security, proper law enforcement authorities, Rape Treatment Center at Santa Monica-UCLA Medical Center, and Campus Ministry;
- b. Explain all stages of the Title IX hearing process, including potential outcomes for both Complainant and Respondent;
- c. Provide information, explanation and review so that the Complainant and Respondent can make an informed decision about the options available to them, including Reporting to law enforcement, filing a Formal Complaint, documenting their decisions and requesting Supportive Measures;
- d. Follow up with the Complainant/Respondent throughout the Title IX hearing process and thereafter to ensure that no Retaliation is taking place and to continue to provide access to the resources that the Complainant/Respondent require.

D. Title IX Hearing Process

Once a Formal Complaint is received, MSMU will address allegations of Title IX Sexual Harassment through the hearing process outlined below. MSMU’s Title IX hearing process strives to treat Complainants and Respondents equitably by adhering to the hearing process outlined in the 2020 Title IX Regulations.

Title IX Sexual Harassment is prohibited, unacceptable and will not be tolerated. A faculty or staff member who is found to have engaged in Title IX Sexual Harassment may be subject to disciplinary action up to, and including, dismissal from the University. The University reserves the right to take disciplinary action regarding allegations involving current students, faculty or staff without regard to the length of time since the alleged Title IX Sexual Harassment occurred. *Violation of this policy may also subject the offender to criminal prosecution or third party civil litigation.*

Formal Complaint Process and Investigations

a. Notice of Allegations

Upon receipt of a Formal Complaint, MSMU will provide written notice to both the Complainant and Respondent of the following:

- i. Notice of MSMU's hearing process
- ii. Notice of the allegations of Title IX Sexual Harassment (including Sexual Assault, Dating Violence, Domestic Violence and Stalking) and sufficient details known at the time;
- iii. Notice that the Respondent is presumed not to have violated policy for the alleged conduct until a determination regarding responsibility can be made at the conclusion of the hearing process;
- iv. Notice that the Complainant is presumed to be acting in good faith in making their Formal Complaint of Title IX Sexual Harassment;
- v. Notice that the Complainant and Respondent may have an Advisor of their choice;
- vi. Notice that the Complainant and Respondent may inspect and review evidence gathered during the investigation of the alleged behavior; and
- vii. Notice of MSMU's prohibition on knowingly making or submitting false statements during the hearing process.

If, in the course of an investigation, MSMU decides to investigate allegations about the Complainant or Respondent that are not included in the initial notice of allegations, MSMU will provide notice of the additional allegations in writing to all parties whose identities are known at the time.

b. Dismissal of Formal Complaint

MSMU will investigate all allegations that are included in a Formal Complaint. However, if the conduct alleged in the Formal Complaint does not constitute Title IX Sexual Harassment including Sexual Assault, Dating Violence, Domestic Violence and Stalking as defined in the 2020 Title IX Regulations, then MSMU is required under the 2020 Title IX Regulations to dismiss the Formal Complaint. Such a dismissal does not preclude pursuit of the allegations under MSMU's Policy Prohibiting [Unlawful Discrimination, Harassment, and Retaliation](#).

Additionally, MSMU may dismiss the Formal Complaint or any allegations therein, if at any time during the investigation or hearing:

- i. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
- ii. The Respondent is no longer employed by MSMU; or
- iii. MSMU is prevented from gathering sufficient evidence to reach a determination as to the Formal Complaint, including, but not limited to, a Complainant ceasing to participate in the Hearing process.

Upon dismissal of a Formal Complaint, MSMU will send written notice of the dismissal and reason(s) as to why the dismissal occurred, simultaneously to both Complainant and Respondent.

Complainants and/or Respondents are able to appeal the dismissal of a Formal Complaint by submitting their appeal in writing to the Title IX Coordinator or designee within seven business days of receiving a decision regarding the dismissal. Upon receipt of the appeal, the Title IX Coordinator or designee will review all applicable information reasonably in their possession and will submit a written determination to the Complainant and/or Respondent.

c. Title IX Investigation of a Formal Complaint

Once a Formal Complaint is filed, MSMU will conduct an investigation of the allegations.

During the investigation, the Title IX Investigator will schedule and conduct interviews with the Complainant, Respondent and any fact or expert witnesses. In order to ensure the hearing process is conducted in a reasonably prompt time frame, it is essential that all participants respond promptly to interview request(s).

Interview requests will be submitted in writing to participants and will give participants sufficient time to prepare to participate. The Complainant and Respondent are able to be accompanied to any related meeting or proceeding by the Advisor of their choice, subject to certain restrictions as outlined below. During the investigation, the Complainant and Respondent are encouraged present relevant evidence.

The Complainant and Respondent are able to be accompanied to any related meeting or proceeding by the Advisor of their choice, subject to certain restrictions as outlined below.

Prior to the completion of the investigation, both the Complainant and the Respondent and their Advisors will be provided an opportunity to inspect and review any evidence obtained as part of the investigation.

The Complainant and Respondent will have seven business days to submit a written response to the evidence, which the Title IX Investigator will consider prior to completion of an investigative report.

Upon expiration of the seven business days, the Title IX Investigator(s) will create an investigative report summarizing all relevant evidence and, at least seven business days prior to a hearing, make the investigative report available to both the Complainant and the Respondent and their Advisors, for their review and written response.

All evidence subject to the participants' inspection and review will be made available during the hearing so that both the Complainant and the Respondent have an equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Title IX Hearing Procedural Protections

Faculty or staff alleged to have engaged in Title IX Sexual Harassment are accorded the following procedural protections:

- a. Written or electronic notice (generally, via the official University e-mail account) of the alleged misconduct, the location of the Faculty/Staff Title IX Policy, a scheduled pre-hearing meeting with a representative from Human Resources ("HR") (or the instructions on how to schedule the pre-hearing meeting) and timely notice of that pre-hearing meeting;
- b. A pre-hearing meeting at which:
 - i. The Complainant/Respondent may ask the HR representative questions regarding the hearing process;
 - ii. The HR representative will explain the hearing processes to the parties including cross examination processes and procedures and the parties rights and make available the Faculty/Staff Title IX Policy. The HR representative will also explain the private nature of the hearing process. Except for appeals, external judicial challenges or other University processes, statements made by the parties during the hearing with cross-examination will remain private.

The HR representative will explain the fact that the hearing will become part of the file relating to the case.

- c. Complainants and Respondents are required to have the assistance of an Advisor during the hearing to perform cross-examination. Complainants and Respondents who have not previously identified their Advisor during the investigation process will be required to inform the HR representative of the identity of their Advisor prior to scheduling the Title IX hearing. If a Complainant or Respondent does not have an Advisor, MSMU will appoint an Advisor to serve with the Complainant/Respondent and perform cross-examination during the Title IX hearing on the Complainant/Respondent's behalf. The Advisor's role is to assist a Complainant/Respondent in understanding the hearing process during the investigation and Title IX hearing process. Advisors may not represent the Complainant/Respondent during any meeting or hearing during the investigation or Title IX hearing process, outside of the Advisor's role in cross-examination. An Advisor may not appear in lieu of the Complainant/Respondent to either the pre-hearing meeting or the Title IX hearing.
- d. A Title IX hearing (conducted via videoconferencing) during which the Hearing Panel will specify the nature of the alleged misconduct and provide the Complainant and Respondent the opportunity to again review the information and evidence gathered by the University that make up the basis for the charge(s). Complainants/Respondents will have the opportunity to respond to the information gathered by the University, including the right to offer counter information and/or call appropriate fact and/or expert witnesses.

The Hearing Process will proceed where a Respondent fails to appear after timely notice and a determination of the charged misconduct will be made based upon the facts and evidence submitted in support of the alleged misconduct at that hearing (failure to check one's e-mail is not sufficient justification for not attending a scheduled hearing). A Complainant who fails to appear after timely notice will be deemed to have abandoned their complaint and the charges will be dismissed unless the University is presenting the case and the facts and evidence presented in support of the charged misconduct independent of the Complainant warrants the continuation of the hearing process;

- e. The Respondent's Advisor, via videoconferencing, will be permitted the opportunity to ask questions of the Complainant, and any witnesses that appear either at the request of the Respondent, the Complainant or the University, in order to assess the credibility of the information offered. The Hearing Panel Chair will review each question after it has been asked and may be permitted to disallow a question asked by the Respondent's Advisor if the Respondent's Advisor is unable to provide sufficient rationale for the relevancy of the question;

The Complainant's Advisor, via videoconferencing, will be permitted the opportunity to ask questions of the Respondent, and any witnesses that appear either at the request of the Complainant, the Respondent or the University, in order to assess the credibility of the information offered. The Hearing Panel Chair will review each question after it has been asked, and may be permitted to disallow a question asked by the Complainant's Advisor if the Complainant's Advisor is unable to provide sufficient rationale for the relevancy of the question;

- f. Both the Complainant and Respondent will be permitted the opportunity to make a closing statement at the conclusion of the evidentiary portion of the hearing;
- g. If a further hearing is necessary, a supplemental hearing will be scheduled:

- i. Complainants, Respondents, or the Hearing Panel may submit new and or additional evidence and call appropriate fact (non-expert) witnesses at the supplemental proceeding. Complainants and Respondents will have the opportunity to respond to any new or additional evidence that is presented for the first time at the supplemental proceeding;
 - ii. Complainants and Respondents may utilize the assistance of an Advisor during the supplemental hearing;
- h. If it is determined that the Respondent is responsible for violation(s) of this policy, the Respondent will be subject to employment-related disciplinary action up to, and including, dismissal from the University. If not, the charge(s) will be dismissed;
 - i. Complaints will be promptly investigated and adjudicated following the procedures herein outlined;
 - j. For compliance with Clery Act record retention requirements, all official records related to reports of Title IX Sexual Harassment will be retained for a minimum of seven years;
 - k. Unless required by law, privacy laws prevent notification or disclosure to Complainants about the relevant employment-related disciplinary history, if any, of the Respondent.

Title IX Hearing Procedural Guidelines

The following procedural guidelines will be applicable in Title IX hearing proceedings:

- a. Title IX Hearings will generally be private except for the Hearing Panel, parties and Advisors. Title IX hearings will be recorded via videoconferencing software utilized by the Hearing Panel only. Recording devices (audio and/or video) of any kind are not permitted for use by the parties, witnesses or Advisors. The recording of the hearing will be part of the file and may be accessible to both the Complainant and Respondent by contacting the Title IX Coordinator;
- b. The Hearing Panel will exercise control over the procedures to avoid needless consumption of time. Any person, including an Advisor, who is disruptive during the Title IX hearing, refuses to follow the rules or procedures and/or fails to adhere to the admonitions and rulings of the Hearing Panel may be excluded from the proceedings. If an Advisor is excluded during a Title IX hearing, the hearing will be halted and rescheduled at a later date to accommodate the Complainant/Respondent procuring a different Advisor of their choice or being provided an Advisor by MSMU;
- c. The decision of the Hearing Panel will include an identification of the initial allegations, a brief description of the procedural steps followed by MSMU to respond to the allegations, a summary of the testimony and evidence in support of the findings, the findings, decision and applicable employment sanction(s) and additional supportive measures for the Complainant (if any). The decision will be sufficiently detailed to permit review on appeal and as authorized or required by law will be sent to both the Complainant and Respondent;
- d. The Hearing Panel will consist of three Hearing Panel members. Hearing Panel members receive training regarding the adjudication of Formal Complaints made under this policy. The Title IX Coordinator will appoint one of the Hearing Panel members to serve as the Hearing Panel Chair. The Hearing Panel will consist of three members with a minimum of one faculty or staff persons. Prior to the hearing, the Complainant/Respondent may challenge a Hearing Panel member on the grounds of personal bias. Any such challenge must be made in writing to the Title IX Coordinator, or designee, not less than two

business days prior to the hearing. The disqualification challenge of a Hearing Panel member will be determined by the Senior Director of Human Resources. If a challenge is sustained, the Senior Director of Human Resources will appoint another Hearing Panel member;

- e. Witnesses will be required to affirm that their testimony is truthful and may be subject to charges of providing false information under applicable student or employment policy. If a witness refuses to participate in the hearing with cross examination, their prior or subsequent statements to the Title IX Investigator during the investigation will not be utilized or relied upon by the Hearing Panel in coming to a decision;
- f. The burden of proof will be upon MSMU who must establish the Respondent violated this policy by a Preponderance of the Evidence;
- g. Except as provided herein, formal rules of evidence and discovery will not be applicable in proceedings conducted pursuant to this policy. The Hearing Panel will give effect to recognized rules of privacy (including FERPA) and privilege but will otherwise admit all matters into evidence that a reasonable person would accept as having probative value in the conduct of their affairs. Unduly repetitious or irrelevant evidence may not be considered in the decision;
- h. Written statements, absent testimony by the witness that is subject to cross-examination, will not be admitted into evidence nor used for any purpose.

Privacy

MSMU will keep private the identity of any individual who has made a Report or complaint alleging Title IX Sexual Harassment as defined by the 2020 Title IX Regulations, as well as the name of the Complainant(s), Respondent(s) or any witnesses of the alleged behavior to the extent practicable to fulfill the requirements of the 2020 Title IX Regulations. Once a Formal Complaint has been filed, MSMU will maintain the privacy of involved individuals to extent practicable to fulfill the hearing process outlined by the 2020 Title IX Regulations.

E. Title IX Appeal Procedures

- 1. Any decision by the Hearing Panel or employment sanction(s) assigned may be appealed by the Complainant or Respondent. Appeals to the **Appeal Committee** are limited to one or more of the following grounds:
 - a. The employment sanction(s) taken by the University is substantially disproportionate to the offense;
 - b. The procedures provided for in this policy were not materially followed resulting in significant prejudice to the Appellant;
 - c. New relevant evidence is available, which in the exercise of reasonable diligence could not have been produced at the time of the hearing;
 - d. The decision is not supported by substantial evidence; or
 - e. The Title IX Coordinator, Title IX Investigator(s), or Hearing Panel(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.

2. All petitions for appeals will be submitted to:

Title IX Coordinator
Mount Saint Mary's University
Doheny Campus, 10 Chester Place, Los Angeles, CA 90007
TitleIX@msmu.edu;

3. Appeal petitions must be submitted by the involved party (Complainant or Respondent) via written statement and received by the Title IX Coordinator within seven days from the date of the imposition of the original decision. Appeal petitions may not be submitted by Advisors or third parties (including, without limitation, lawyers) on behalf of the involved party. Failure to file the appeal petition within the seven-day limitations period results in the decision becoming final and conclusive. Failure to comply with these procedures may result in the rejection of an appeal petition.
4. The appeal petition must be accompanied by a written statement in support of the appeal. Upon notification of the receipt of a proper and timely appeal petition, the Title IX Coordinator, or designee, will convene the Appeal Committee. The non-appealing party (either Complainant or Respondent) will be notified of an appeal and be afforded the opportunity to submit a timely written statement in opposition to the appeal.
5. The Appeal Committee will be identified by the Vice President for Student Affairs and will consist of three committee members. Appeal Committee members receive training regarding the review of appeals made under this policy. The Appeal Committee will consist of three members and a minimum of one faculty or staff persons.
6. The Appeal Committee will review the video and audio recording of the live hearing, the findings, decision and recommended employment sanction(s) (if applicable), the Respondent's relevant employment-related disciplinary history (if applicable) and the written statement of the Complainant and Respondent filed with the appeal petition or in response to the appeal petition.
7. The Appeal Committee may, but is not required to, request the Hearing Panel or the involved parties submit additional information in writing. If the Hearing Panel or any party is requested to submit additional information, the parties not so requested will be entitled to reply in writing to the additional written information supplied to the Appeal Committee.
8. So long as supported by the evidentiary record, the Appeal Committee will give deference to the determinations of the Hearing Panel, and may make one of the following recommendations:
 - a. Recommended employment sanction(s) may be reduced, if found to be substantially disproportionate to the offense or affirmed;
 - b. The case may be referred back to the Title IX Coordinator, or designee, for reassignment to a new Hearing Panel if bias was detected and/or if specified procedural errors in interpretation of this policy were so substantial as to effectively deny the appellant a fair hearing, or for reassignment to the original Hearing Panel if significant new evidence became available, which could not have been discovered by a properly diligent Complainant/Respondent before or during the original hearing;
 - c. The determination should be reversed, if the decision is not supported by substantial evidence;

- d. The Appeal Committee will not alter the underlying decision of the Hearing Panel if supported by substantial evidence and reasonable inferences arising therefrom.
9. Both parties will have the opportunity to submit an appeal and absent an appeal by both parties, the nonappealing party will have the opportunity to submit a written statement in either support or opposition to the extant appeal petition. Both parties will be notified of the results of the appeal.
10. Concurrent with the filing of an appeal petition, Complainants or Respondents may challenge a member of the Appeal Committee on the grounds of personal bias. All disqualification challenges of Appeal Committee members will be determined by the Vice President for Student Affairs or designee. If a challenge is sustained, the proceedings will continue without the participation of the disqualified member and the Vice President for Student Affairs or designee will appoint a new member to the Appeal Committee.
11. Except as provided herein, formal rules of evidence and discovery will not be applicable in these proceedings conducted pursuant to the Code. The Appeal Committee will give effect to the recognized rules of privacy (including FERPA) and privilege but may otherwise admit matters into evidence which reasonable persons would accept as having probative value in the conduct of their affairs. Unduly repetitious or irrelevant evidence may be excluded.
12. The Appeal Committee may take presumptive notice of matters that would be of general knowledge to other University students, faculty and/or staff.
13. The Appeal Committee will be provided copies of the Respondent's relevant employment-related disciplinary history (if applicable) when reference to the relevant employment-related disciplinary history is included in the decision made by the Hearing Panel.
14. Procedural, evidentiary and final recommendations of the Appeal Committee will be by majority vote of the members present and voting.

F. Retaliation

Retaliation is strictly prohibited and will not be tolerated by MSMU.

All persons, including University students, faculty and staff, are prohibited from taking any retaliatory action against any other member of the University Community including, but not limited to, the Complainant, Respondent or witnesses to an alleged incident of Title IX Sexual Harassment. Any individual engaging in any retaliatory action(s) will be subject to discipline up to, and including, dismissal from the University

Retaliation by non-students will be adjudicated and determined in accordance with the [MSMU Policy for Unlawful Discriminatory, Harassment and Retaliation](#) . Any Complainant, Respondent or alleged witness to an alleged incident of Title IX Sexual Harassment who believes that they have been retaliated against for having filed, or being named in, a complaint of Title IX Sexual Harassment or for having participated in the investigation of such a complaint, should promptly notify the Title IX Coordinator at TitleIX@msmu.edu .