

# **POLICY ON PROHIBITED DISCRIMINATION, HARASSMENT AND RELATED MISCONDUCT**

**Including Sexual Harassment, Sexual Violence, Sexual Misconduct, Domestic Violence,  
Dating Violence and Stalking**

## **A. PROHIBITED CONDUCT**

Mount St. Joseph University is committed to providing an environment for work and study free from discrimination on the basis of race, color, national origin, religion, sex, age, disability, sexual orientation or other minority or protected status.

This prohibition against discrimination also includes harassment. Harassment of any person or group of persons on the basis of race, color, national origin, religion, sex, age, disability, sexual orientation or other minority or protected status is prohibited by the University. Prohibited harassment includes any words or conduct (verbal, physical, graphic or written) directed against any person or group of persons because of their race, color, national origin, religion, sex, age, disability, sexual orientation or other minority or protected status.

Prohibited harassment also includes any words or conduct (verbal, physical, graphic, or written) that has the purpose or reasonably foreseeable effect of creating an offensive, demeaning, intimidating, or hostile environment for any person or group of persons. Such words or conduct include, but are not limited to, objectionable epithets, demeaning depictions or treatment, and threatened or actual abuse or harm.

Sexual harassment of students and employees, which includes sexual misconduct including assault or acts of sexual violence, is a form of sex discrimination. Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol or intellectual or other disability. A number of different acts fall into the category of sexual violence, including rape, sexual battery, sexual assault, sexual misconduct, domestic violence, dating violence, and stalking. All such acts of sexual violence are forms of sexual harassment covered under Title IX and referenced and addressed in the Clery Act and the Campus Violence Elimination Act (SaVE Act), passed as part of the Violence Against Women Reauthorization Act (VAWA). These recent amendments to the Clery Act do not alter the University's responsibility under Title IX to respond to and prevent sexual violence.

Sexual harassment and inappropriate sexual conduct threaten the freedom and the very person of others. The University strives to eliminate all forms of sexual harassment and violence. Therefore, the University will not tolerate sexually harassing or violent conduct, including offenses of domestic violence, dating violence, sexual assault and stalking, against any member of the University community on University premises or any other locations where members of the University community are together because of assigned or University-sanctioned activities. Employees or students who violate this policy will be subject to disciplinary action up to and including potential termination of employment, or suspension or dismissal from the University.

Inappropriate or unprofessional remarks or conduct may be reason for intervention and discipline whether or not they are actually harassing.

## **B. DEFINITIONS**

**Sexual harassment** includes, but is not limited to, unwelcome sexual advances, requests for sexual favors and other verbal, electronic or physical conduct 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**

An offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. The terms include: Forcible Rape, Forcible Sodomy, Sexual Assault/Sexual Misconduct With An Object, Forcible Fondling, Non-Forcible Sex Offenses, Dating Violence (42 U.S.C. 13925(a)), and/or Stalking (42 U.S.C. 13925(a) and Ohio Revised Code 2903.211.

### **Sexual Violence**

Sexual violence is a broader term than sexual assault. The term encompasses sexual homicide, rape, incest, molestation, fondling, stalking, intimate partner violence, and verbal harassment of a sexual nature. Sexual violence includes creating an environment that feels unsafe based on sexual messages or images. Sexual violence is a sexual act that is completed or attempted against a victim's will or when a victim is unable to consent due to age, illness, disability, or the influence of alcohol or other drugs. The act may involve actual or threatened physical force, use of weapons, coercion, intimidation or pressure.

### **Crimes-Sexual Assault**

“Sexual assault” means an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. The terms include:

- 1) **Rape:** Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- 2.) **Sodomy:** Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
- 3) **Sexual Assault/Sexual Misconduct With An Object:** The use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will; or not forcibly or against the person's will

when the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

- 4) **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
- 5) **Non-Forcible Sex Offenses:** Unlawful, non-forcible sexual intercourse including incest (non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law) and Statutory Rape (non-forcible sexual intercourse with a person who is under the statutory age of consent.)
- 6) **Domestic Violence:** The term “domestic violence” includes 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, 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. (42 U.S.C. 13925(a)).  
Ohio Revised Code §2919.25 Domestic Violence\*.
  - No person shall knowingly cause or attempt to cause physical harm to a family or household member.
  - No person shall recklessly cause serious physical harm to a family or household member.
  - 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 full text of Ohio Revised Code §2919.25 is available at:  
<http://codes.ohio.gov/orc/2919.25>.
- 7) **Dating Violence:** The term “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;
    - the type of relationship; and
    - the frequency of interaction between the persons involved in the relationship.(42 U.S.C. 13925(a)).
- 8) **Stalking:** The term “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. (42 U.S.C. 13925(a)).  
Ohio Revised Code §2903.211 Menacing by Stalking.

(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.

(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 §2902.211 is at: <http://codes.ohio.gov/orc/2903.211>.

**Please note:** Definitions of crimes may be legislatively modified at any time and specific crime elements may vary by jurisdiction. Additional offenses also may meet the defined elements of the crimes above (e.g. a trespass also may be considered stalking.)

### **Effective Consent**

Consent is a key factor in determining sexual misconduct. Consent implies words and/or actions that demonstrate a voluntary agreement to engage in mutually agreed upon sexual activity.

- 1) **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 actively (verbally or non-verbally) communicating 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 resist unwelcome sexual contact for there to be a violation of this policy.
- 2) **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 impaired or 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 verbalized feeling of being nauseous.
- 3) **Both partners must be equally free to act.** The decision to be sexually intimate must be made without coercion. Consent cannot be obtained by coercion or force or by taking advantage of one’s inability to give consent because of incapacitation or other circumstances. Coercion or force includes conduct, intimidation, and express or implied threats of physical or emotional harm, that would reasonably place an individual in fear of immediate or future harm and that is employed to persuade or compel someone to engage in sexual conduct.

## C. EDUCATION, TRAINING AND RESOURCES

The Wellness Center provides confidential counseling and health services for all students at Mount St. Joseph University. In addition, the Wellness Center staff makes regular efforts to provide primary prevention, awareness, and risk reduction education regarding numerous health issues, including sexual and relationship health. Links regarding health resources are provided on the Wellness Center Counseling and Health Services pages on MyMount. The Wellness Center also has hard copy brochures and handouts regarding many health topics.

MSJ's new student orientation includes *Sex Signals*, a two-person team of highly-trained educators who take the audience of our incoming freshmen on an interactive and relevant exploration of beliefs, behaviors, and gender stereotypes related to dating and sexual interaction. This nationally recognized collegiate interactive theatre touring company program is designed to: 1) engage audiences in a focused discussion on social pressures, gender stereotypes, unrealistic sexual expectations, and the role of alcohol surrounding hooking up and intimate relationships; 2) establish how these beliefs, attitudes and behaviors can lead to sexual violence; 3) delineate the difference between seduction and coercion; define the nature of sexual violence; and, 4) empower the audience to identify predatory behavior in others and intervene to support vulnerable members in their communities.

The Wellness Center also promotes and monitors the "Think About It" program from Campus Clarity which is required for all new students. Campus Clarity developed "Think About It" to help colleges and universities comply with student education requirements relating to sexual misconduct under the Title IX of the Education Amendments Act of 1974 and Section 308(a)(8) of the Violence against Women Reauthorization Act of 2013 (known as the Campus SaVE Act). This interactive course promotes the awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking for those who are required to take the course. "Think About It" was developed using a harm reduction model designed to encourage bystander intervention. It also provides new students with a copy of the university's sexual misconduct policies required by the April 4, 2011 Dear Colleague Letter, the Department of Education's Office for Civil Rights. Students must review and acknowledge those policies before completing the course. The current version of Think About It used by MSJU also covers primary prevention as well as disciplinary procedures and consequences of policy violations.

An addition to our primary prevention programming in 2016 is the piloting of the Step UP! Be a Leader! Make a Difference! Bystander Intervention Training Program that teaches students how to intervene in problematic situations. Most problematic behaviors on college campuses involve bystanders. Step UP! Training provides a framework explaining the bystander effect, reviews relevant research, and teaches skills for intervening successfully, using the 5 Decision Making Steps, and the S.E.E. Model (Safe; Early; Effective).

The University has selected third party administrator, WorkPlace Answers (WPA), for our online education program to promote the awareness of harassment, discrimination, sex discrimination, rape, acquaintance rape, domestic violence, dating violence, sexual assault and stalking for our faculty and staff. This is a required training that must be completed by all new University employees and is also available to existing employees. The Campus SaVE Act/ Title

IX course includes Federal and Ohio state specific definitions. The training educates employees to recognize sex discrimination, helps employees protect against sexual violence, sends a strong message that sex discrimination and violence are prohibited by the University, and explains the importance of reporting sex discrimination promptly. The key concepts of the training include defining sex discrimination and sexual violence, explaining prohibitions against intimate partner violence and stalking, and covers the grievance procedures available and employee rights by providing detailed coverage of Title IX, pertinent details of the Clery Act and Violence Against Women Act, and references to how sex discrimination and violence may be covered by other laws, including criminal laws.

During the second semester of each academic year, a more concentrated effort is made to provide primary prevention, awareness and risk reduction information and education during National Sexual Health Week in February. During that week, the Wellness Center Counseling Staff offer a variety of interactive activities regarding healthy relationships and resources available to students who may be victims of rape, domestic violence, dating violence, stalking, and sexual harassment. Bystander intervention is also addressed in this programming. Counselors are also available to provide informational workshops to Resident Assistants and other student leadership groups regarding the Title IX, The Clery Act and the Campus SaVE Act. This workshop is provided upon request. During Sexual Assault Awareness Month in April, the Criminology Club and the Sexual Health and Safety Committee and faculty and students enrolled in MSJU's Domestic Violence course present several programming opportunities to promote awareness of sexual assault, dating violence, domestic violence, and stalking. These presentations include sexual assault and self-defense facilitated by a police detective, sexual assault information/education/prevention facilitated by Women Helping Women, email blasts and posters to raise awareness of domestic violence, small group Impact Projects to raise awareness of domestic violence on campus or in the community facilitated by students in the Domestic Violence course, and the presentation of a Domestic Violence awareness display during MSJU's annual Celebration of Teaching and Learning.

Mount St. Joseph University Police Department training includes an introduction and history of the Violence Against Women Act and the Campus SaVE Act followed by a discussion of the roles and responsibilities as outlined in the new regulations, greater law enforcement awareness of crimes against women and the importance of peace officer response. As with crime prevention and community policing, the importance of law enforcement response and investigation and what processes and contacts need to be completed by police is also discussed. This supplements current training regarding resources for victims of crime. Training also includes a review of revised MSJ policies and procedures related to sexual misconduct and pertinent sections of the Ohio Revised Code. The MSJ Police Department provides groups or individuals with crime prevention techniques and advice.

MSJ personnel charged with disciplinary investigations related to harassment, discrimination, sexual misconduct and violence participate in an annual training program consistent with Title IX obligations.

Additional resources regarding sexual violence can be found in the MSJ Sexual Violence Rights, Reporting and Resources brochure found on the [MSJ Police Department website](#).

## **D. REPORTING**

The University encourages any student who has experienced or witnessed discrimination, harassment, sexual harassment, sexual violence, or retaliation of any kind to report such conduct immediately and in accordance with the procedures detailed below. An employee who has observed an act of discrimination, harassment, sexual harassment, sexual violence, or retaliation, or a supervisor or department chair who receives an informal complaint or who is aware of a situation which could possibly violate this policy has a duty to report the circumstances in writing to the Chief Compliance and Risk Officer (Title IX Coordinator), the Chief of Police, or the Director of Human Resources.

Crimes in progress should be reported immediately to Campus Police, 513-244-4226 or dial 0 from any campus phone.

The University strives to protect those who complain of discriminatory, harassing or sexually violent conduct and prohibits intimidation or retaliation against any individual who reports discrimination, harassment, or sexually violent conduct or who participates in any investigation into allegations of such misconduct.

### **Reporting discrimination, harassment, sexual harassment or retaliation**

A student or employee who believes herself/himself to be the subject of discrimination, harassment, sexual harassment (not including sexual misconduct/violence), or retaliation may report the complaint to the following individuals:

- Linda Panzeca, Chief Compliance and Risk Officer and Title IX Coordinator, Office of the President, 513-244-4393
- Lisa Kobman, Director of Human Resources, Office of Human Resources, 513-244-4979
- Janet Cox, Dean of Students, 513-244-4466

### **Reporting sexual misconduct, violence, assault or retaliation**

A student or employee who believes herself/himself to be the victim or subject of sexual misconduct, violence, assault, or retaliation may report the complaint to the following offices:

- 1) Criminal complaint
  - a. 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 Website
- 2) Institutional complaint
  - a. Title IX Coordinator, Linda Panzeca, Chief Compliance and Risk Officer, Office of the President, 513-244-4393
  - b. Dean of Students, Janet Cox, Office of Student Affairs, 513-244-4466

- c. Director of Human Resources, Lisa Kobman, Office of Human Resources, 513-244-4979
- d. Other Campus Security Authorities (CSAs)
  - Wellness Center – Counseling and Health Services, Wellness Suite, Harrington Center, 513-244-4949\*
  - Coordinator of Residence Life, Warren Grove, 1st Floor Seton Center, 513-244-4465
  - Resident Assistants – Reports from RAs will be forwarded to the MSJ Police Department through the Office of Residence Life
  - Director of Mission & Ministry, Nancy Bramlage, SC, Office of Mission & Ministry, 513-244-4844
  - Campus Ministry Coordinator, Charissa Qiu, Office of Mission & Ministry, 513-244-4866
  - Assistant Director of Human Resources, Kayla Werner, Office of Human Resources, 513-244-4854
  - Assistant Dean for Student Engagement and Leadership, Stephen Craig, Harrington Center, 513-244-4627
  - Director of Diversity and Inclusion, Terri Hurdle, Seton Center, 513-244-4467
  - [Children's Center Coordinator, Janet Baltzersen, Harrington Center, 513-244-4972](tel:513-244-4972)
  - Executive Director, Ethical Leadership Development, Tim Bryant, 513-244-4504
  - Faculty/Staff Advisors to student organizations
  - Athletic Director, Steve Radcliffe, Jean Dowell Building, 513-244-4381
  - Associate Athletic Director, Melanee Atkinson, Sports Complex, 513-244-8585
  - Athletic Coaches

\*Wellness Center professional personnel may serve as confidential reporting resources rather than CSAs under limited circumstances as described below.

Reports can also be filed through the University's Misconduct Reporting and Inquiry Hotline but please note that the Hotline is not intended for "911" or any safety or emergency situations which should be reported immediately to the MSJ Police Department or for off-campus emergencies, 911.

A student or employee may file a criminal complaint or report, an internal report with one or more offices, or both. Reporting the incident does not obligate the victim to prosecute or have the accused individual notified, but does allow gathering of information by appropriate campus authorities. Each office is prepared to assist students and employees with deciding on where complaints may be filed and to assist with notification to the MSJ Police Department if appropriate. Each office is able to refer a student for interim measures to stop and prevent the recurrence of harassing behavior and for health care services.

For reports involving alleged dating violence, domestic violence, sexual assault or stalking, personally identifying information will not be included in any publicly available recordkeeping, including Clery Act reporting and disclosures such as the annual security report and the daily crime log. MSJ recognizes its responsibility to protect a complainant's confidentiality while



also recognizing that, in some cases, we may need to disclose some information about a complainant to a third party to provide necessary accommodations or protective measures. The Title IX Coordinator, in consultation with the Dean of Students or Director of Human Resources will determine what information about a complainant should be disclosed and to whom this information will be disclosed. Ordinarily in such cases, the complainant will be informed before sharing personally identifying information that MSJ believes is necessary to provide an accommodation or protective measure.

Interim steps as appropriate may be taken to stop and prevent the recurrence of harassing behavior. Such steps may include “no contact” orders, transportation assistance or security escorts, and/or adjustments in employment, academic, housing and extracurricular arrangements and activities. Such steps will be designed to minimize the burden on the complainant’s employment or educational program. MSJ is obligated to comply with a student’s reasonable request for a living and/or academic situation change following an alleged sex offense. Interim measures are ordinarily determined by the Dean of Students or Director of Human Resources in consultation with the Title IX Coordinator.

Reporting parties will be directed to medical, counseling, and pastoral resources available through the University or through external referral sources when appropriate.

Victims of sexual violence including domestic violence, dating violence, sexual assault or stalking are provided with a [written statement](#) of his/her rights, reporting options and resources. While the University strongly encourages students or employees to report incidents of sexual violence, we recognize the victim’s right to decline such reporting. Such a declination does not eliminate the University’s obligation to investigate offenses that come to our attention, with or without the cooperation of the victim.

Mount St. Joseph University is committed to protecting the confidentiality of victims, and will work closely with students who wish to obtain confidential assistance regarding an incident of sexual violence. There is a distinction between making a report to the University or law enforcement through the designated reporting options identified above and seeking confidential assistance through confidential resources.

Making a report to the University by contacting a reporting option from the list included in section D of this policy means that the report will be shared with the MSJ Police Department and the Title IX Coordinator and the reporting party will be provided with resources and support to identify the appropriate action to respond to the reported incident. 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 but will not include the name of the reporting party or other individuals in the report if the person making the report requests confidentiality. A reporting party is encouraged to make a report even if that individual is not seeking disciplinary action against the alleged perpetrator. The University will make every effort to respect a reporting party’s autonomy in determining how to proceed. Support and resources are always available to a reporting party regardless of the chosen course of action. Receiving a report of the incident permits the University to keep records of reported incidents and determine appropriate response and the potential need to alert the MSJ community

to potential danger. Reported incidents will also be included in the University's annual crime statistics.

MSJ will evaluate requests for confidentiality in the context of its responsibility to provide a safe and nondiscriminatory environment for all members of the MSJ community. Requests for confidentiality will be weighed against the seriousness of the alleged incident, the ages of the individuals involved, other complaints that may have been filed about the alleged perpetrator, and the alleged perpetrator's right to receive information maintained by MSJ as an education record as defined by FERPA.

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

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

Mount St. Joseph University values a safe environment conducive to learning and is committed to ensuring the safety and well-being of each student. The University is also committed to providing guidance so that students can learn to 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. In support of this commitment, the University has implemented a Good Samaritan/Amnesty Policy, the full text of which can be found in the Student Handbook.

MSJ encourages reporting of sexual misconduct and seeks to remove any barriers to making a report. MSJ recognizes that an individual who has been drinking 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 sexual misconduct, either as a reporting party or a witness, will not be subject to disciplinary action by MSJ for their own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violation did not and do not place the health or safety of any other person at risk.

***Please note that this policy does not excuse or protect those who repeatedly or flagrantly violate the Student Code of Conduct. If a student received amnesty for a prior incident, the availability of amnesty for a subsequent incident is at the discretion of the Dean of Students or his/her designee. If other infractions are concurrent at the time of intoxication including but not limited to physical or sexual assault, distribution of illicit substances or property damage, this policy does not apply. In addition, amnesty does not preclude or prevent action by police or other legal authorities.***

## **E. 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 the criminal court system for resolution.

### **Institutional Complaints**

Investigation of allegations against a faculty or staff member by another faculty or staff member or a student will be conducted by the Director of Human Resources in consultation with the appropriate administrative officer(s) and the Title IX Coordinator.

Investigation of allegations against a student by another student will be conducted by the Dean of Students with the Coordinator of Residence Life in consultation with the Title IX Coordinator.

The University's Title IX investigation is different from any law enforcement investigation, and a law enforcement investigation does not relieve the University of its independent Title IX obligation to investigate the conduct. In cases involving potential criminal conduct, University personnel must determine, consistent with State and local law, whether appropriate law enforcement or other authorities should be notified. Conduct may constitute unlawful sexual harassment under Title IX even if law enforcement determines that it does not constitute a crime. All incidents of sexual misconduct involving students and employees that are reported to the Mount St. Joseph University Police Department will also be referred to the Title IX Coordinator and the Dean of Students for follow up and investigation into whether it constitutes sexual harassment or discrimination in violation of this policy.

The University will make every effort to maintain the confidentiality and privacy of individuals and information involved in any complaint of discrimination, harassment, sexual harassment or misconduct, or retaliation consistent with this policy. Complainants and others involved in such investigations should recognize, however, that the University will conduct a full investigation into such complaints, and it may be necessary for the University to disclose the identity(ies) of those involved, or other information gathered in the course of the investigation, when investigating or taking appropriate corrective action.

Notwithstanding the above disclosures, the University will withhold as confidential the names of victims of sexual violence when issuing timely warnings to the campus community that may be required.

Any attempt by a member of the faculty, staff, administration, or student body to penalize or retaliate in any way against a person bringing a complaint of discrimination, harassment, or sexual harassment or misconduct, or retaliation is prohibited and will be treated as a separate incident to be reviewed and investigated in its own right.

### **Informal Resolution**

**Note: Informal resolution is not considered appropriate to resolve sexual violence or assault complaints.**

In appropriate circumstances, and with the approval of the complainant, the Chief Compliance and Risk Officer (Title IX Coordinator), the University Provost, the Dean of Students, or the Director of Human Resources may attempt informal methods to resolve the alleged complaint without the need for additional proceedings. Pursuing informal resolution is voluntary and access to a formal investigation is available at all times to the complainant. Every effort will be made to resolve a complaint within thirty (30) days of the complaint using an informal process.

The objective of the informal process will be to provide appropriate relief to the aggrieved party, sensitize the alleged harasser to the effects of such behavior, and resolve the complaint to the mutual satisfaction of both parties.

**Formal Investigation and Resolution**

In instances where formal methods are warranted and/or requested by the complainant, a formal investigation will be conducted in an expeditious and confidential manner. Formal investigations can be conducted by the Dean of Students, the Residence Life Coordinator, the Director of Human Resources, the Assistant Director of Human Resources, and/or the Title IX Coordinator, all of whom complete training on an annual basis. The annual training includes but is not limited to a review of key Clery Act principles, an overview of requirements imposed by the SaVE Act (VAWA), select discrimination concepts, the role of the investigator, how to conduct an investigation, select legal concepts, how to evaluate evidence, fashioning appropriate remedial actions, and drafting/disseminating reports/notices of outcomes.

Preponderance of the evidence will be considered the appropriate standard for investigating allegations of sexual harassment or violence. Any real or perceived conflicts of interest between the investigator or decision-maker and the parties will be disclosed and resolved prior to the start of the investigation. The investigation will continue through completion regardless of whether a grievant files a similar complaint with a local, state, or federal agency or court.

- The complainant will be given an opportunity to identify any witnesses or other evidence to support the complaint of discrimination, harassment, sexual harassment, sexual misconduct, sexual violence, or retaliation. The accused will be given an equal opportunity to identify any witnesses or other evidence to respond to the complaint of discrimination, harassment, sexual harassment, sexual misconduct, sexual violence, or retaliation.
- The complainant and the accused will be given timely notice of meetings at which one or the other or both may be present.
- The complainant, the accused, and appropriate officials are given timely and equal access to information that will be used during informal and formal disciplinary meetings.
- The University will interview the complainant and the accused, and, where possible, interview witnesses. The investigation will also involve a review of the statements and evidence presented by the complainant and accused, and other evidence gathered within the reasonable scope of the investigation.
- In instances involving sexual violence, including but not limited to alleged domestic violence, dating violence, sexual assault or stalking, the complainant and accused will be

entitled to the same opportunity to have others present during an internal disciplinary proceeding, including the opportunity to be accompanied to any related meeting by an advisor or support person of their choice. An advisor or support person can be any person the complainant and accused feels comfortable confiding in, and need not be affiliated with the University (i.e. a friend, a family member, a person from a support or advocacy agency). An advisor or support person may accompany the student to any part of the formal investigation and resolution, including any meetings with the investigators and decision makers. The advisor or support person does not participate in the process and, as such, will not be permitted to speak for the complainant or accused, address investigators, or question the complainant, the accused, or witnesses, nor can the advisor be a witness to the allegations in the complaint. Anyone who is actively involved in a complaint may not serve as an advisor or support person. An advisor or support person must agree to the limitations of the advisor role and to maintain the confidentiality of the process.

- Every effort will be made to complete the investigation within 30 days of receiving the written complaint. If the University is unable to complete the investigation within 30 days of receipt of the complaint, it will notify the complainant and the accused in writing of the need for additional time, the reason(s) that additional time is needed, and an approximate date for completion of the investigation.
- If the University determines in its good faith discretion that a faculty or staff member has engaged in conduct in violation of this Policy, the offender 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 required discrimination or harassment education, counseling, reassignment, no contact orders, demotion, suspension, non-reappointment, and termination from employment.
- If the University determines in its good faith discretion that a student has engaged in conduct in violation of this Policy, the sanction for the offender will be determined through the Student Life Standards and Disciplinary Policy and Procedures, but may include penalties up to and including suspension or dismissal. Other sanctions include disciplinary warning, disciplinary probation, disciplinary probation with restrictions, no contact orders, fines, restitution, notification to others, educational/work assignment/community service, counseling, loss of privileges, restricted access, room transfer, termination of housing contract, or mandatory withdrawal from University housing.
- Both the complainant and the accused will receive simultaneous written notice of the outcome of the investigation, the University's appeal procedures, any change to the resolution that may occur as a result of an appeal, and when the results are considered final. Compliance with this provision does not constitute a violation of section 444 of the General Education Provisions Act, commonly known as the Family Educational Rights and Privacy Act (FERPA).
- Faculty and staff concerns regarding the outcome of this process may be addressed through the Mediation and Resolution of Disputes and Appeal Process provided that the request for review is filed within 10 days of being informed of the result of the investigation and resolution;
- Student concerns regarding the outcome of this process may be addressed through the Student Life Standards and Disciplinary Policy and Procedures provided that the request for review is filed within 10 days of being informed of the result of the investigation and resolution;

- If the University determines in its good faith discretion that any individual involved in an investigation of misconduct under this Policy has deliberately or knowingly provided false information to those investigating, the individual will be subject to discipline, up to and potentially including termination of employment, or suspension or dismissal from the University;
- In substantiated cases of discrimination, harassment, sexual harassment, sexual misconduct, sexual violence, or retaliation, the University will take appropriate steps to prevent recurrence and to correct discriminatory effects on the complainant and others, if appropriate.

If, at any point during the informal or formal grievance procedure, it becomes known or apparent that the grievance or concern relates to the University's obligations under Section 504 of the Rehabilitation Act (e.g., to provide reasonable accommodations and physical access to students with disabilities), the grievance or concern will be promptly referred to the Director of the Learning Center & Disability Services pursuant to the University's Disability-Related Grievance Procedure. In such cases, the University will conduct a single investigation pursuant to the applicable policy and procedures.

Nothing in this process 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 discrimination 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, he/she has the right to file a grievance/charge directly with the Office of Civil Rights or the Ohio Civil Rights Commission.

Laws and regulations prohibiting discrimination, harassment 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). The Chief Compliance and Risk Officer is the individual responsible for the coordination of efforts to comply with these responsibilities.