



MISERICORDIA
UNIVERSITY

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Policy Steward: *Pamela Parsnik: Director of
Human Resources & Title IX
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Area: *Human Resource Mgmt*

Sexual Misconduct & Title IX Sexual Harassment Policy

I. Reason for Policy

Misericordia University ("Misericordia" or "the University") is committed to providing a living, learning, and working environment that is equitable, inclusive, and free from discrimination, harassment, and retaliation. Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, is a federal law that prohibits discrimination on the basis of sex in education programs or activities that receive federal financial assistance. This policy is amended pursuant to regulations adopted by the Department of Education in 2020 and amended effective August 1, 2024.

II. Policy Statement

Misericordia University does not discriminate on the basis of sex and prohibits sex discrimination, including sex-based harassment, occurring under its education program or activity that it operates, as required by Title IX, including admissions and employment.

As described in more detail below, individuals may report concerns or questions to the Title IX Officer. The University's notice of non-discrimination is located here: [Notice of Non-Discrimination, Equal Opportunity, Non-Discrimination Policy](#).

Because of the nature of sexual misconduct, it is important to note that the University has other policies which interface with the Sexual Misconduct & Sexual Harassment Policy. These include:

- [Anti-Harassment](#)
- [Code of Ethics](#) (Employees)
- [Campus Community Violence](#)
- [Student Code of Conduct](#)
- Campus Safety Handbook
- [Protection of Minors](#)

For more information visit Sexual Misconduct/Harassment Title IX Webpage.

III. Who Should Read This Policy

All students, employees, applicants for admission or employment, guests, and visitors.

IV. The Policy

Misericordia University prohibits all forms of sex discrimination, including sexual harassment as defined by Title IX and set forth in this policy, occurring under any education program activity, including admission and employment. As used in this policy, the term “sex discrimination” includes all forms of sex discrimination prohibited by Title IX and this policy. Conduct that occurs under a recipient’s education program or activity includes, but is not limited to:

- Conduct that occurs in any building owned or controlled by a student organization that is officially recognized by the University; and
- Conduct that is subject to the University’s disciplinary authority.

Such acts are considered to be serious misconduct and may result in disciplinary action up to and including expulsion or termination of employment. Additionally, such acts may violate federal, state, and local laws and perpetration of such acts may be subject to criminal prosecution. Any member of the University community, visitor to campus, or participant in a University-sponsored activity may bring a complaint of sexual harassment, sexual violence, relationship violence, domestic violence, stalking, or inappropriate consensual sexual relationship in the workplace or educational setting against a member of the faculty, a member of the staff, or an enrolled student.

V. Definitions

Advisor - An individual who provides support, guidance, and/or assistance to the complainant or responding party throughout the University Sexual Misconduct Complaint Resolution Process and/or the Title IX Grievance Process. Complainants and respondents have the right to select an advisor of their choice. Advisors may be a friend, mentor, family member, attorney, or any other supporter a party chooses to advise them who is both eligible and available. Advisors are required during the Title IX hearing process. If a party does not have an advisor present at the Title IX hearing process, Misericordia University will provide the party with an advisor.

Complaint – An oral or written request to the University that objectively can be understood as a request for the recipient to investigate and make a determination about alleged discrimination under Title IX or its regulations.

Complainant --

(1) A student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or this part; or

(2) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or this part and who was participating or attempting to participate in the recipient's education program or activity at the time of the alleged sex discrimination.

Confidential employee --

(1) An employee of a recipient whose communications are privileged or confidential under Federal or State law. The employee's confidential status, for purposes of this part, is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies;

(2) An employee of a recipient whom the recipient has designated as confidential under this part for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty

not associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination in connection with providing those services; or

(3) An employee of a postsecondary institution who is conducting an Institutional Review Board-approved human-subjects research study designed to gather information about sex discrimination—but the employee's confidential status is only with respect to information received while conducting the study.

Consent -- A knowing and voluntary agreement to engage in specific sexual activity at the time of the activity. Consent is “knowing and voluntary” if it has not been induced by force or coercion, and if has been given by a person who has capacity to agree.

Coercion -- Coercion is the use of unreasonable and persistent pressure to compel another individual to initiate or continue sexual activity against an individual's will.

Force -- Force is the use or threat of physical violence or intimidation to overcome an individual's freedom of will to choose whether or not to participate in sexual activity. Under Pennsylvania law, force may also be moral, intellectual, emotional or psychological.

Incapacitation -- Incapacitation is defined as the inability, temporarily or permanently, to give consent because an individual is mentally and/or physically helpless, asleep, unconscious, or unaware that sexual activity is occurring.

The concepts of consent, coercion, force, and capacity are also informed by other University policies; see section II, **Policy Statement**, above.

Disciplinary sanctions -- consequences imposed on a respondent following a determination under Title IX that the respondent violated the recipient's prohibition on sex discrimination.

Federal financial assistance -- any of the following, when authorized or extended under a law administered by the Department:

(1) A grant or loan of Federal financial assistance, including funds made available for:

- (i) The acquisition, construction, renovation, restoration, or repair of a building or facility or any portion thereof; and
- (ii) Scholarships, loans, grants, wages, or other funds extended to any entity for payment to or on behalf of students admitted to that entity, or extended directly to such students for payment to that entity.

(2) A grant of Federal real or personal property or any interest therein, including surplus property, and the proceeds of the sale or transfer of such property, if the Federal share of the fair market value of the property is not, upon such sale or transfer, properly accounted for to the Federal Government.

(3) Provision of the services of Federal personnel.

(4) Sale or lease of Federal property or any interest therein at nominal consideration, or at consideration reduced for the purpose of assisting the recipient or in recognition of public interest to be served thereby, or permission to use Federal property or any interest therein without consideration.

(5) Any other contract, agreement, or arrangement which has as one of its purposes the provision of assistance to any education program or activity, except a contract of insurance or guaranty.

Parental status -- the status of a person who, with respect to another person who is under the age of 18 or

who is 18 or older but is incapable of self-care because of a physical or mental disability, is:

- (1) A biological parent;
- (2) An adoptive parent;
- (3) A foster parent;
- (4) A stepparent;
- (5) A legal custodian or guardian;
- (6) In loco parentis with respect to such a person; or
- (7) Actively seeking legal custody, guardianship, visitation, or adoption of such a person.

Party -- a complainant or respondent.

Peer retaliation – retaliation by a student against another student.

Pregnancy or related conditions –

- (1) Pregnancy, childbirth, termination of pregnancy, or lactation;
- (2) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
- (3) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

Preponderance of Evidence -- The standard of evidence used to determine if a Title IX policy violation occurred. Misericordia University uses a “preponderance of evidence” standard, which means that the evidence demonstrated in the grievance process demonstrates that it is more likely than not that the alleged conduct or policy violation occurred.

Program or activity and program -- all of the operations of—

- (1)(i) A department, agency, special purpose district, or other instrumentality of a State or local government; or
 - (ii) The entity of a State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;
- (2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or
 - (ii) A local educational agency (as defined in 20 U.S.C. 8801), system of vocational education, or other school system;
- (3)(i) An entire corporation, partnership, other private organization, or an entire sole proprietorship—
 - (A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or
 - (B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or
- (ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private

organization, or sole proprietorship; or

- (4) Any other entity that is established by two or more of the entities described in paragraph (1), (2), or (3) of this definition, any part of which is extended Federal financial assistance.

Relevant -- related to the allegations of sex discrimination under investigation as part of these grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

Remedies -- measures provided, as appropriate, to a complainant or any other person the recipient identifies as having had their equal access to the recipient's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the recipient's education program or activity after a recipient determines that sex discrimination occurred.

Respondent -- a person who is alleged to have violated the recipient's prohibition on sex discrimination.

Retaliation -- intimidation, threats, coercion, or discrimination against any person by the recipient, a student, or an employee or other person authorized by the recipient to provide aid, benefit, or service under the recipient's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or this part, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part, including in an informal resolution process or grievance procedures, and in any other actions taken by a recipient in connection with a complaint of sex discrimination or sex-based harassment. Nothing in this definition precludes a the University from requiring an employee or other person authorized by the University to provide aid, benefit, or service under the recipient's education program or activity to participate as a witness in, or otherwise assist with, an investigation, proceeding, or hearing under this part.

Sex-based harassment -- a form of sex discrimination and means sexual harassment and other harassment on the basis of sex as defined herein, that is:

(1) Quid pro quo harassment. An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;

(2) Hostile environment harassment. Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

(i) The degree to which the conduct affected the complainant's ability to access the recipient's education program or activity;

(ii) The type, frequency, and duration of the conduct;

(iii) The parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;

(iv) The location of the conduct and the context in which the conduct occurred; and

(v) Other sex-based harassment in the recipient's education program or activity; or

(3) Specific offenses.

(i) Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;

(ii) Dating violence meaning 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:

(1) The length of the relationship;

(2) The type of relationship; and

(3) The frequency of interaction between the persons involved in the relationship;

(iii) Domestic violence meaning felony or misdemeanor crimes committed by a person who:

(A) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;

(B) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;

(C) Shares a child in common with the victim; or

(D) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or

(iv) Stalking meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(A) Fear for the person's safety or the safety of others; or

(B) Suffer substantial emotional distress.

Sex Discrimination - Discrimination against an individual based on that person's sex, gender, gender identity or sexual orientation.

Student -- a person who has gained admission.

Student with a disability -- a student who is an individual with a disability as defined in the Rehabilitation Act of 1973, as amended, 29 U.S.C. 705(9)(B), (20)(B), or a child with a disability as defined in the Individuals with Disabilities Education Act, 20 U.S.C. 1401(3).

Supportive measures -- individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

(1) Restore or preserve that party's access to the recipient's education program or activity, including measures that are designed to protect the safety of the parties or the recipient's educational

environment; or

(2) Provide support during the recipient's grievance procedures for sex discrimination or sex-based harassment, or during the informal resolution process for either process.

Title IX -- Title IX of the Education Amendments of 1972 (Pub.L. 92–318; 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688, 1689), as amended.

VI. Procedures

1. Reporting and Monitoring

a. Reports to the Title IX Coordinator

The University has designated the Director of Human Resources to serve as the University's Title IX Coordinator. The Title IX Coordinator and Title IX Deputy Coordinator (hereinafter, "Title IX Coordinator" or "Title IX Office") will be informed of all reports of sex discrimination and will oversee the University's centralized review, investigation, and resolution of those reports to ensure the University's compliance with Title IX and the effective implementation of this policy.

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b. Mandatory Reporting Obligations

Any non-confidential employee of the University who either has authority to take corrective action on behalf of the University or has responsibility for administrative leadership, teaching, or advising in a University education program or activity ("Responsible Employees"), and who becomes aware of information about conduct that reasonably may constitute sex discrimination, is required by Title IX notify the Title IX Coordinator.

The following employees of the University are Responsible Employees:

- President, Vice Presidents, Deans, Assistant and Associate Vice Presidents, and Department Chairs and individuals who directly report to any of these roles
- Faculty
- Athletic Director, Coaches, Assistant Coaches, Graduate Assistants and other Athletics Department employees
- All Area Campus Life Coordinators, Assistant Coordinators of Campus Life, and Community Assistants
- Anyone who directly supervises students, student workers, faculty or other staff
- Managers, coordinators, program heads, directors (including assistant or associate positions)
- All staff in Enrollment Management and Mission Integration and Student Life
- Academic Advisors, and all staff in the Student Success Center
- All staff in the Human Resources Department
- Campus Safety & Security Department Staff and Facilities staff
- Individuals designated as Campus Security Authorities under the Clery Act

Knowledge is imputed to the University upon a report to any one of these employees.

Upon receiving a report of sexual misconduct, the Title IX Officer will take appropriate steps to ensure that the individual who reported the incident has been advised of the available resources and the process for making a formal complaint. The Title IX Coordinator will also monitor the University's education programs and activities for barriers to reporting information about conduct that reasonably may constitute sex discrimination and take steps the University reasonably determines will address such barriers.

Members of the University community who have crime statistics reporting obligations under the Clery Act are obligated to report the matter to the Division of Public Safety, in addition to the Title IX Officer. For additional information about Clery Act reporting or to make a report, please refer to the "Reporting Requirements" section of the Misericordia [Protection of Minors](#) Policy.

c. Confidential Resources for Information, Counseling, and Support

Resource offices are available to members of the University Community who are involved in a report of sexual harassment, sexual violence, stalking, or intimate partner violence. In any report to a confidential resource, the confidential employee will provide information to the person reporting the conduct of the employee's status as confidential for purposes of Title IX. The confidential employee will provide information to the reporting person as to how contact the Title IX Coordinator, how to make a complaint, and how the Title IX Coordinator

can help.

Generally, information shared with a confidential resource will be held in confidence unless the person sharing the information expressly consents to its disclosure. The University will also respect the reporting party's expectations of privacy to the extent permissible by law while still ensuring compliance with other reporting obligations, such as the Clery Act. The University's confidential resources are:

i. On-Campus Confidential Resources (Dallas and Pittsburgh):

Misericordia University Counseling and Psychological Services Center (CAPS)

McGowan Hall, Lower Level, or call (570) 674-6408

M-F, 8:30 am until 4:30 pm during the academic year; 24/7 on-call counselor can be reached by calling Campus Safety at (570) 674-6300

Misericordia University Student Health and Wellness Center (Dallas Campus)

Anderson Sports and Health Center, or call (570) 674-6276

Misericordia University Office for Mission, Ministry, and Service (Clergy when advising in that capacity)

Banks Student Life Center, or call (570) 674-6314

ii. Off Campus Confidential Resources:

Employee Assistance Program

(800) 538-3543

www.CignaBehavioral.com/CGI

Victims Resource Center (Dallas Campus)

Hotline: (570) 823-0765

Luzerne County Domestic Violence Services Center (Dallas Campus)

Hotline: (800) 424-5600

Crisis Center North (Pittsburgh Campus)

Hotline: (412) 364-5556

National Domestic Violence Hotline (NDV)

(800) 799-7233 (SAFE)

www.thehotline.org

Rape, Abuse and Incest National Network (RAINN)

(800) 656-4673

www.rainn.org

d. Education and Prevention

Misericordia University is committed to the prevention of sexual misconduct and sexual harassment, including sexual violence, through education and awareness programs. The Title IX Office will ensure that the policy is publicized regularly and will oversee the delivery of prevention and awareness training and other educational programs tailored to campus needs and climate. All educational programs include a review of resources and reporting options available for students, faculty, and staff. For more information, see the "Resources" document, attached.

e. Retaliation and False Accusations

Misericordia University prohibits retaliation against faculty, staff, students, and members of the community who in good faith make reports or assist in an investigation of violations of this policy. In addition, knowingly and intentionally making a false report of a violation of this policy, or knowingly or intentionally providing false information in connection with an investigation of a such violation, is prohibited. Complaints to the Title IX Office of retaliation or false accusations under this policy will be handled using the grievance procedures outlined in the University Handbooks (Student or Faculty, as applicable), or [Staff Grievance Policy](#) (Staff).

f. Sex-Based Harassment

Under Title IX and this policy, sex-based harassment is a form of sex discrimination and means sexual harassment and other harassment on the basis of an individual's sex, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity, or gender expression and that:

- Conditions an educational or employment benefit on participation in unwelcome sexual conduct ("quid pro quo") harassment; or
- Is unwelcome conduct that, based on the totality of the circumstances,
 - is subjectively offensive;
 - is objectively offensive; and
 - is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from a University educational program or activity; or
- Takes the form of a specific offense below (e.g. sexual assault, dating violence, domestic violence, stalking).

Sexual violence includes a range of behaviors in which an act of a sexual nature is taken against another individual without that person's consent or when the individual is unable to consent. There are various types of sexual violence, including but not limited to sexual assault and rape (defined below).

Sexual assault (including but not limited to rape) is defined as having committed any of the following acts:

- Any physical sexual contact that involves the use or threat of force or violence or any other form of coercion or intimidation
- Any physical sexual contact with a person who is unable to consent due to incapacity or mental or physical impairment. "Incapacity" or "impairment" includes but is not limited to being under the influence of alcohol or drugs or being too young to consent.

Rape is defined as sexual assault involving an act of penetration (and includes such assaults when the individuals know one another).

Non-forcible sex acts include unlawful sex acts where consent is not relevant, such as sexual contact with an individual under the statutory age of consent as defined by Pennsylvania law.

Consent is an affirmative decision to engage in mutually agreed upon sexual activity and is given by clear words or actions. Consent may not be inferred from silence, passivity, or lack of resistance alone. Furthermore, consent to one form of sexual activity does not imply consent to other forms of sexual activity, and the existence of a current or previous dating, marital, or sexual relationship is not sufficient to constitute consent to additional sexual activity. Assent shall not constitute consent if it is given by a person who, because of youth, disability, intoxication, or other condition, is unable to lawfully consent. Consent is further defined in the Student Code of Conduct and the Misericordia University Campus Safety Handbook.

Relationship violence, also commonly known as dating violence, is defined as an act or a pattern of abuse committed by a person involved in a social, sexual, or romantic relationship, past or present, with the victim. Relationship violence can encompass a broad range of behaviors that may include physical violence, sexual violence, emotional violence, and economic violence.

Domestic violence is defined as abuse committed against an adult who is a spouse, former spouse, cohabitant, someone with whom the person has a child, someone with whom the person has an existing dating or engagement relationship, or someone with whom the person had a dating or engagement relationship in the past.

Stalking is defined as engaging in a course of conduct directed at specific person(s) that would cause a reasonable person to fear for their safety, the safety of others, or to suffer substantial emotional distress.

In determining whether the alleged conduct violates this policy, consideration will be given to the totality of the circumstances, including the nature of the conduct and the context in which the alleged incident occurred. Generally, complaints of sexual harassment, sexual violence, relationship violence, and stalking are made by members of the University community. Those made by individuals who are not students, faculty, staff, or alumni will be directed to external resources available to respond to their complaint or provide support or advice.

g. Prohibition on Consensual Romantic and Sexual Relationships in the Workplace and Education Setting

Amorous, sexual, or other intimate relationships in which one party maintains a direct supervisory or evaluative role over the other party can impair the integrity of the faculty-student or supervisor-subordinate relationship, or may appear to others to suggest actual bias or favoritism. Therefore, such relationships violate University rules of conduct and may be subject to discipline. In the event of such a relationship, the person in the position of authority is responsible to notify their own supervisor to achieve a resolution consistent with this policy. Failure to comply with this requirement is a violation of this policy that may subject the person in authority to discipline up to and including dismissal from employment by the University.

h. Responsibilities of the Title IX Coordinator

When notified of conduct that reasonably may constitute sex discrimination under Title IX or this policy, unless the Title IX Coordinator determines that the conduct could not constitute sex discrimination under this policy, the Title IX Coordinator will take the following actions to promptly and effectively end any sex discrimination in its education program or activity, prevent its recurrence, and remedy its effects:

(1) Treat the complainant and respondent equitably;

(2) Offer and coordinate supportive measures, as appropriate, for the complainant. In addition, if the University has initiated grievance procedures for any kind of sex discrimination or offered an informal resolution process to the respondent, offer and coordinate supportive measures, as appropriate, for the respondent;

(3) (a) Notify the complainant or, if the complainant is unknown, the individual who reported the conduct, of the grievance procedures applicable based on the nature of the complaint, and the informal resolution process, if available and appropriate; and

(b) If a complaint is made, notify the respondent of the grievance procedures applicable based on the nature of the complaint, and the informal resolution process under paragraph (k) of this section, if

available and appropriate;

(4) In response to a complaint, initiate the grievance procedures under § 106.45, and if applicable § 106.46, or the informal resolution process, if available and appropriate and requested by all parties;

(5) In the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process, the Title IX Coordinator may initiate a complaint of sex discrimination that complies with the applicable grievance procedure if the Coordinator determines, based upon an evaluation of *at least* the following factors, that the alleged conduct presents an imminent and serious threat to the health or safety of the complainant or other person, or that it prevents the University from ensuring equal access on the basis of sex to its education program or activity:

(a) the complainant's request not to proceed with initiation of a complaint;

(b) the complainant's reasonable safety concerns regarding initiation of a complaint;

(c) the risk that additional acts of sex discrimination would occur if a complaint is not initiated;

(d) the severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence;

(e) the age and relationship of the parties, including whether the respondent is an employee of the university;

(f) the scope of the alleged sex discrimination, including whether it is ongoing, suggests a pattern, or is alleged to have impacted multiple individuals;

(g) the availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and

(h) whether the University could end the discrimination and prevent its recurrence without initiating the applicable grievance procedure

i. Basic Requirements of the Grievance Procedure Applicable to All Forms of Sex Discrimination

The following requirements apply to *all* sex discrimination complaints.

- Misericordia University will treat complainants and respondents equitably
- The Title IX Coordinator, investigator, and decisionmaker(s) shall not have a conflict of interest or bias for or against complainants generally or an individual complainant or respondent. Where no conflict exists, the decision maker may be the same person as the Title IX Coordinator or investigator.
- Misericordia presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.
- The University will make every effort to resolve all complaints within ninety (90) business days. In the event of an adjudication before a Hearing Panel or Officer, the decision-maker(s) will issue the written determination of responsibility within ten (10) business days after the conclusion of the hearing. These time frames may be extended for good cause with written notice to the parties of the extension and the

reasons for it.

- The University will permit the reasonable extension of timeframes, for good cause, on a case-by-case basis. Where such extensions are required, the Title IX Coordinator will provide written notice to the parties that includes the reason for the delay.
- The University will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.
- The University will objectively evaluate all evidence that is relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witnesses.

The following types of evidence, and questions seeking that evidence, are impermissible and will not be accessed or considered (except by the University to determine whether one of the exceptions listed below applies); will not be disclosed; and will not otherwise be used, regardless of whether they are relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the University obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
- Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

j. Grievance Procedures for Complaints of Sex Discrimination

Misericordia University has adopted grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in an education program or activity, or by the Title IX Coordinator, alleging any action that would be prohibited by Title IX or the Title IX regulations.

i. Complaints

The following people have a right to make a complaint of sex discrimination, including complaints of sex-based harassment, requesting that the University investigate and make a determination about alleged discrimination under Title IX:

- A "complainant," which includes:
 - a student or employee of Misericordia University who is alleged to have been subjected to conduct

- that could constitute sex discrimination under Title IX; or
 - a person other than a student or employee of the University who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in the University's education program or activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
- The University's Title IX Coordinator.

With respect to complaints of sex discrimination other than sex-based harassment, in addition to the people listed above, the following persons have a right to make a complaint:

- Any student or employee Misericordia University; or
- Any person other than a student or employee who was participating or attempting to participate in the University's education program or activity at the time of the alleged sex discrimination.

The University may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. Where consolidation is desired and the Family Educational Rights and Privacy Act (FERPA) so requires, the University will obtain the prior written consent from parents or eligible students to the disclosure of their education records for this purpose. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

ii. Notice of Allegations

Upon initiation of the University's Title IX grievance procedures, the University will notify the parties of the following:

- Misericordia's Title IX grievance procedures and any informal resolution process;
- Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex discrimination, and the date(s) and location(s) of the alleged incident(s);
- That retaliation is prohibited; and that
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an accurate description of this evidence.

If, in the course of an investigation, Misericordia decides to investigate additional allegations of sex discrimination by the respondent toward the complainant that are not included in the notice provided or that are included in a complaint that is consolidated, the University will notify the parties of the additional allegations.

iii. Dismissal of a Complaint of Sex Discrimination

Misericordia may dismiss a complaint of sex discrimination if:

- The University is unable to identify the respondent after taking reasonable steps to do so;
- The respondent is not participating in the University's education program or activity and is not employed by the University;
- The complainant voluntarily withdraws any or all of the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint, and the University determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex

discrimination under Title IX even if proven; or

- The University determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, the University will make reasonable efforts to clarify the allegations with the complainant.

Within 10 business days of receipt of a complaint, the Title IX Coordinator will determine whether to dismiss a complaint or to initiate the formal grievance procedure. Upon dismissal, the University will promptly notify the complainant of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then the University will also notify the respondent of the dismissal and the basis for the dismissal promptly following notification to the complainant, or simultaneously if notification is in writing.

Misericordia will notify the complainant that a dismissal may be appealed and will provide the complainant with an opportunity to appeal the dismissal of a complaint. If the dismissal occurs after the respondent has been notified of the allegations, then the University will also notify the respondent that the dismissal may be appealed. Dismissals may be appealed on the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If the dismissal is appealed, the University will:

- Notify the parties of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
- Provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the parties of the result of the appeal and the rationale for the result.

When a complaint is dismissed, Misericordia will, at a minimum:

- Offer supportive measures to the complainant as appropriate;
- If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within Misericordia's education program or activity.

iv. Investigation of a Complaint of Sex Discrimination

Misericordia will provide for adequate, reliable, and impartial investigation of complaints.

The burden is on the University—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

The Title IX Coordinator will provide an equal opportunity for the parties to present fact witnesses and other

inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

The Title IX Coordinator will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

The Title IX Coordinator will provide each party with an equal opportunity to access the evidence that is relevant to the allegations of sex discrimination and not otherwise impermissible, in the following manner:

- The Title IX Coordinator will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or an accurate description of this evidence. If the Title IX Coordinator provides a description of the evidence, the Title IX Coordinator will provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party.
- The Title IX Coordinator will provide a reasonable opportunity to respond to the evidence or the accurate description of the evidence; and
- The University will take reasonable steps to prevent and address the parties' unauthorized disclosure of information and evidence obtained solely through the grievance procedures. Disclosures of such information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex discrimination are authorized.

v. Questioning the Parties and Witnesses

The investigative team will conduct the investigation in a manner appropriate in light of the circumstances of the case. The investigative team will coordinate the gathering of information from the complainant, the respondent, and any other individuals who may have information relevant to the determination. The investigative team will also gather any available physical evidence, including documents, communications between the parties, and other electronic records as appropriate. In gathering the facts, the investigative team may consider prior allegations of, or findings of responsibility for, similar conduct by the respondent to the extent such information is relevant. The complainant and respondent will have an equal opportunity to be heard, to submit information, and to identify witnesses who may have relevant information. Witnesses must have observed the acts in question or have information relevant to the incident and cannot be participating solely to speak about an individual's character.

The investigation is designed to provide a fair and reliable gathering of the facts. The investigation will be thorough, impartial and fair, and all individuals will be treated with appropriate sensitivity and respect.

At the conclusion of this fact-gathering process, both parties will have an opportunity to review the interviews conducted and to propose any additional questions to be posed by the investigative team to the parties or witnesses, in accordance with the parameters for permissible evidence previously described.

vi. Determinatin Whether Sex Discrimination Occurred

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, Misericordia will:

- Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred. The standard of proof requires the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex discrimination occurred.

- Notify the parties in writing of the determination whether sex discrimination occurred under Title IX including the rationale for such determination, and the procedures and permissible bases for the complainant and respondent to appeal, if applicable;
- Not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the grievance procedures that the respondent engaged in prohibited sex discrimination.
- If there is a determination that sex discrimination occurred, the Title IX Coordinator will, as appropriate:
 - Coordinate the provision and implementation of remedies to a complainant and other people the University identifies as having had equal access to Misericordia's education program or activity limited or denied by sex discrimination;
 - Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
 - Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the University's education program or activity.
- Comply with the grievance procedures before the imposition of any disciplinary sanctions against a respondent; and
- Not discipline a party, witness, or others participating in the grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

vii. Informal Resolution

In lieu of resolving a complaint through Misericordia's Title IX grievance procedures, the parties may instead elect to participate in an informal resolution process.

viii. Supportive Measures

The Title IX Coordinator will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to Misericordia's education program or activity or provide support during the University's Title IX grievance procedures or during the informal resolution process, or to protect the safety of the parties or the University's educational environment. The University will not disclose information about supportive measures to persons other than the person to whom they apply, including informing one party of supportive measures provided to another party, except where necessary to provide the supportive measures or restore or preserve a party's access to the education program or activity, or where 1) a party consents to the release of such information; 2) the information is disclosed to a parent, guardian, or other legal representative with the right to receive disclosures; 3) disclosures are required by federal law or regulation or the conditions of a federal award.

For complaints of sex-based harassment, these supportive measures may include the following:

- Counseling
- Extensions of deadlines and other course-related adjustments
- Campus escort services;
- Increased security and monitoring of certain areas of the campus
- Restrictions on contact applied to one or more parties
- Leaves of absence
- Changes in class, work, housing, or extracurricular or any other activity, regardless of whether or not a comparable alternative exists
- Training and education programs related to sex-based harassment

Supportive measures may be continued, modified, or terminated, as appropriate, at the conclusion of either the informal resolution process or the grievance procedure.

A complainant or respondent may seek, from an appropriate and impartial employee, modification or reversal of the University's decision to provide, deny, modify, or terminate supportive measures applicable to them. The impartial employee must be someone other than the employee who made the original decision and must have authority to modify or reverse the decision upon a determination that the original decision was inconsistent with the definition of supportive measures in this policy. **See Definitions.**

ix. Disciplinary Sanctions and Remedies

Following a determination that sex discrimination occurred, the University may impose disciplinary sanctions, up to and including expulsion of students and discharge of employees .

k. Grievance Procedures for Complaints of Sex-Based Harassment Involving Student Complaints or Student Respondents

Misericordia has adopted Title IX grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator. These grievance procedures address complaints of sex-based harassment that involve a student party.

When a party is both a student and an employee of the University, the Title IX Coordinator will undertake a fact-specific inquiry to determine whether these requirements apply.

i. Complaints

The following people have a right to make a complaint of sex-based harassment, requesting that Misericordia investigate and make a determination about alleged sex-based harassment under Title IX:

- A "complainant," which includes:
 - a student or employee of Misericordia who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
 - a person other than a student or employee of Misericordia who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in the University's education program or activity;
- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant; or
- The University's Title IX Coordinator.

Note that, unlike in the case of a complaint of sex discrimination, a person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX.

ii. Written Notice of Allegations

Upon initiation of these Title IX grievance procedures, the Title IX Coordinator will notify the parties in writing of the following with sufficient time for the parties to prepare a response before any initial interview:

- Misericordia's Title IX grievance procedures and any informal resolution process;
- Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex-based harassment, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited;
- The respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the grievance procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
- The parties may have an advisor of their choice who may be, but is not required to be, an attorney;
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an investigative report that accurately summarizes this evidence. If Misericordia provides access to an investigative report, the parties are entitled to an equal opportunity to access the relevant and not impermissible evidence upon the request of any party; and
- Section 8 of Misericordia University's Student Code of Conduct prohibits knowingly making false statements or knowingly submitting false information during the grievance procedures.

If, in the course of an investigation, the Title IX Coordinator decides to investigate additional allegations of sex-based harassment by the respondent toward the complainant that are not included in the written notice or that are included in a consolidated complaint, it will provide written notice of the additional allegations to the parties.

iii. Dismissal of a Complaint

The Title IX Coordinator may dismiss a complaint if:

- The Title IX Coordinator is unable to identify the respondent after taking reasonable steps to do so;
- The respondent is not participating in Misericordia's education program or activity and is not employed by Misericordia;
- The University obtains the complainant's voluntary withdrawal in writing of any or all of the allegations, the Title IX Coordinator declines to initiate a complaint, and the Title IX Coordinator determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or
- The Title IX Coordinator determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, the Title IX Coordinator will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, the Title IX Coordinator will promptly notify the complainant in writing of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then the Title IX Coordinator will notify the parties simultaneously in writing.

The Title IX Coordinator will notify the complainant that a dismissal may be appealed on the bases outlined in the *Appeals* section. If dismissal occurs after the respondent has been notified of the allegations, then The Title IX Coordinator will also notify the respondent that the dismissal may be appealed on the same bases. If a dismissal is appealed, The Title IX Coordinator will follow the procedures outlined in the *Appeals* section.

When a complaint is dismissed, the Title IX Coordinator will, at a minimum:

- Offer supportive measures to the complainant as appropriate;
- If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and

- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within Misericordia's education program or activity.

iv. Investigation

Misericordia University will provide for adequate, reliable, and impartial investigation of complaints.

The burden is on the University—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

The Title IX Coordinator will provide to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the party to prepare to participate.

The Title IX Coordinator will provide the parties with the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney.

- The Title IX Coordinator will not limit the choice or presence of the advisor for the complainant or respondent in any meeting or proceeding.
- The Title IX Coordinator may establish restrictions regarding the extent to which the advisor may participate in these grievance procedures, as long as the restrictions apply equally to the parties.

The Title IX Coordinator will provide the parties with the same opportunities, if any, to have people other than the advisor of the parties' choice present during any meeting or proceeding.

The Title IX Coordinator will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

The Title IX Coordinator will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

The Title IX Coordinator will provide each party and the party's advisor, if any, with an equal opportunity to access the evidence that is relevant to the allegations of sex-based harassment and not otherwise impermissible, in the following manner:

- The Title IX Coordinator will provide an equal opportunity to access the written investigative report that accurately summarizes the relevant and not otherwise impermissible evidence. The Title IX Coordinator will further provide the parties with an equal opportunity to access the relevant and not otherwise impermissible evidence upon the request of any party;
- The Title IX Coordinator will provide a reasonable opportunity to review and respond to the evidence or the investigative report; and
- The Title IX Coordinator will take reasonable steps to prevent and address the parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through the sex-based harassment grievance procedures.

v. Questioning the Parties and Witnesses

Misericordia will not offer live hearings for the determination of whether sex-based harassment occurred. However, the Title IX Coordinator will provide a process that enables the decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment.

The University's process for proposing and asking relevant and not otherwise impermissible questions and

follow-up questions of parties and witnesses, including questions challenging credibility, will:

- Allow the investigator or decisionmaker to ask such questions during individual meetings with a party or witness;
- Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the investigator or decisionmaker during one or more individual meetings, including follow-up meetings, with a party or witness, subject to the procedures for evaluating and limiting questions discussed below; and
- Provide each party with an audio or audiovisual recording or transcript with enough time for the party to have a reasonable opportunity to propose follow-up questions.

Procedures for the decisionmaker to evaluate the questions and limitations on questions: The decisionmaker will determine whether a proposed question is relevant and not otherwise impermissible before the question is posed and will explain any decision to exclude a question as not relevant or otherwise impermissible. Questions that are unclear or harassing of the party or witness being questioned will not be permitted. The decisionmaker will give a party an opportunity to clarify or revise a question that the decisionmaker determines is unclear or harassing. If the party sufficiently clarifies or revises the question, the question will be asked.

Refusal to respond to questions and inferences based on refusal to respond to questions: The decisionmaker may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The decisionmaker will not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.

vi. Determination Whether Sex-Based Harassment Occurred

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, the University will:

- Use the preponderance of the evidence standard of proof to determine whether sex discrimination occurred. The standard of proof requires the decisionmaker to evaluate relevant and not otherwise impermissible evidence for its persuasiveness. If the decisionmaker is not persuaded under the applicable standard by the evidence that sex discrimination occurred, whatever the quantity of the evidence is, the decisionmaker will not determine that sex discrimination occurred.
- Notify the parties simultaneously in writing of the determination whether sex-based harassment occurred under Title IX including:
 - A description of the alleged sex-based harassment;
 - Information about the policies and procedures that the University used to evaluate the allegations;
 - The decisionmaker's evaluation of the relevant and not otherwise impermissible evidence and determination whether sex-based harassment occurred;
 - When the decisionmaker finds that sex-based harassment occurred, any disciplinary sanctions the University will impose on the respondent, whether remedies other than the imposition of disciplinary sanctions will be provided by the University to the complainant, and, to the extent appropriate, other students identified by the University to be experiencing the effects of the sex-based harassment; and
 - The University's procedures and permissible bases for the complainant and respondent to appeal.
- Misericordia University will not impose discipline on a respondent for sex discrimination prohibited by Title IX unless there is a determination at the conclusion of the Title IX grievance procedures that the

respondent engaged in prohibited sex discrimination.

- If there is a determination that sex discrimination occurred, as appropriate, the Title IX Coordinator will:
 - Coordinate the provision and implementation of remedies to a complainant and other people Misericordia identifies as having had equal access to Misericordia's education program or activity limited or denied by sex discrimination;
 - Coordinate the imposition of any disciplinary sanctions on a respondent, including notification to the complainant of any such disciplinary sanctions; and
 - Take other appropriate prompt and effective steps to ensure that sex discrimination does not continue or recur within the University's education program or activity.
- Comply with the Title IX grievance procedures before the imposition of any disciplinary sanctions against a respondent; and
- Not discipline a party, witness, or others participating in the Title IX grievance procedures for making a false statement or for engaging in consensual sexual conduct based solely on the determination whether sex discrimination occurred.

The determination regarding responsibility becomes final either on the date that the Title IX Coordinator provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

I. Appeals

Misericordia will offer an appeal from a dismissal or from a determination whether sex discrimination or sex-based harassment occurred on the following grounds only:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

The complainant or respondent may file written notice of an appeal within five business days after receiving written notice of the outcome. The notice of appeal must be delivered to the Title IX Coordinator within the five-day period by mail, personal delivery, certified mail, or overnight delivery service. The appeal shall consist of plain, concise, and complete written statement outlining the grounds for the appeal. The decision to accept or reject an appeal will be made by the Title IX Coordinator. If accepted, the appeal will be submitted to an appeal officer appointed by the University.

Upon acceptance of the appeal, the Title IX Coordinator will provide the other party written notice, a copy of the appeal, and the opportunity to respond in writing to the appeal officer. In the event that both parties appeal the findings, each party will be provided notice, a copy of the other party's appeal, and the opportunity to respond in writing.

The appeal officer will be free of bias and conflict of interest and will not be the Title IX Coordinator or Deputy Coordinator, the assigned investigator(s), or the Hearing Officer. The appeal officer will have received required Title IX training.

The appeal will be conducted in an impartial manner. The burden of proof on appeal will lie with the party requesting the appeal, as the original determination and sanction are presumed to have been decided reasonably and appropriately. The appeals officer shall consider the merits of an appeal only on the basis of the aforementioned grounds for appeal, and shall not conduct a fresh review of the underlying matter. The

appeals officer will review the written investigation report and all supporting documents and may consult with both parties.

If a party appeals a dismissal or determination whether sex-based harassment occurred, the Title IX Coordinator will:

- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;
- Communicate to the parties in writing that the Title IX Coordinator will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the parties in writing of the result of the appeal and the rationale for the result.

Any additional procedures or bases for appeal Misericordia offers will be equally available to all parties.

m. Informal Resolution

In lieu of resolving a complaint through Misericordia's Title IX grievance procedures, the parties may instead elect to participate in an informal resolution process. The Title IX Coordinator will inform the parties in writing of any informal resolution process it offers and determines is appropriate, if any. Misericordia will not offer informal resolution to resolve a complaint when such a process would conflict with Federal, State, or local law. Before the initiation of an informal resolution process, the Title IX Coordinator will explain in writing to the parties:

- The allegations;
- The requirements of the informal resolution process;
- That any party has the right to withdraw from the informal resolution process and initiate or resume grievance procedures at any time before agreeing to a resolution;
- That if the parties agree to a resolution at the end of the informal resolution process, they cannot initiate or resume grievance procedures arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
- What information the University will maintain and whether and how the University could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed.

n. Supportive Measures

Misericordia will offer and coordinate supportive measures as appropriate for the complainant and/or respondent as set forth in section J.viii, above.

o. Disciplinary Sanctions and Remedies

Following a determination that sex-based harassment occurred, Misericordia may impose sanctions from warning to expulsion for students or termination for employees, depending upon the severity of the incident and taking into account any previous disciplinary violations. For more information about disciplinary sanctions, see the University's Student or Employee Handbooks/Policies .

p. Procedures Not Exclusive

A complainant, respondent, or witness has many options, including counseling and support services. Information regarding contact information for local law enforcement as well as contact information for

resources that are available to provide support to individuals and witnesses are described in the attached document called Resources. In addition to reporting violative conduct to the Title IX Coordinator or other University personnel as described herein, a person wishing to report the conduct may

- Contact the Office of Campus Safety for assistance in filing a criminal complaint and preserving physical evidence; and/or
- Contact local law enforcement to file a criminal complaint. At the complainant's request, the University will assist the complainant in contacting local law enforcement and will cooperate with law enforcement agencies if a complainant decides to pursue a criminal process.

An individual may pursue some or all of these steps at the same time. When initiating any of the above, an individual does not need to know whether they wish to request any particular course of action, nor how to label what happened. Before or during this decision-making process, complainants and other reporting individuals are encouraged to consult an available resource as described in the attached Resources document.

It is important to note that by reporting an incident, the individual alerts the University and enable others to respond appropriately both to the case and to broader patterns of concerning behavior. Reporting also allows you to discuss options and gives an individual access to various accommodations. Making a report does not commit an individual to pursuing a complaint.

q. Reporting to Local Law Enforcement

Should an individual report an incident of sex-based harassment to both the University and local law enforcement, the University will comply with law enforcement requests for cooperation. Such cooperation may require Misericordia University to temporarily suspend its own investigation into the alleged incident while local law enforcement gathers evidence. During this time, Misericordia University will continue to offer supportive measures to the complainant, respondent, and/or witnesses. As soon as local law enforcement or the University determines that a delay is no longer necessary, the University will promptly resume its Title IX or sexual misconduct investigation.

Misericordia University policy, definitions, and standard of proof differ from Pennsylvania criminal law. Neither law enforcement's determination whether to prosecute a respondent nor the outcome of any criminal prosecution will determine whether sexual misconduct or sexual harassment has occurred under this University policy. Proceedings under this policy may be carried out prior to, simultaneously with or following civil or criminal proceedings off campus.

Contact information for local police departments:

Dallas Township Police Department (Dallas Campus)

(570) 674-2003 or 911

Dallas Borough Police Department (Dallas Campus)

(570) 674-0161 or 911

Moon Township Police Department (Pittsburgh Campus)

(412) 262-5000 or 911

r. Recordkeeping

The University will maintain for a period of seven years the records regarding the following:

- A. Each sexual harassment investigation, including any determination regarding responsibility, the audio recording, audiovisual recording, or transcript of the hearing, any disciplinary sanctions imposed on the respondent, as well as any remedies provided to the complainant designed to restore or preserve equal access to the University's education program or activity;
- B. Any appeal and the result therefrom;
- C. Any informal resolution and the result therefrom; and
- D. All materials used to train Title IX Coordinators, investigators, decision-makers, and informal resolution facilitators. Misericordia University will make these training materials publicly available on its website.

For each response to a report or formal complaint of sexual harassment, the University will create and maintain for a period of seven years, records of any actions, including any supportive measures taken. In each instance, the University will document the basis for its conclusion that its response was not deliberately indifferent and document that it has taken measures designed to restore or preserve equal access to the University's education program or activity. If Misericordia University does not provide a complainant or respondent with supportive measures, then the University will document the reasons why they were not offered.

Attachments

No Attachments

Approval Signatures

Step Description	Approver	Date
Final Approval	Daniel Myers: President	08/2024
Reviewed By Presidents Advisory Council	Mark Van Etten: Vice President, Finance and Administration	08/2024
	Pamela Parsnik: Director of Human Resources & Title IX Coord.	08/2024