MOUNT VERNON
NAZARENE UNIVERSITY
Office of
CIVIL RIGHTS
Trust & Transparency

Civil Rights Policy

Discrimination, Harassment, Sexual Misconduct

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Sections that pertain to TIX are subject to change upon revised Federal regulations.

How to Get Help

Any member of the MVNU community who has experienced sexual or physical assault is encouraged to immediately seek medical assistance, contact law enforcement to make a report, and make a report to the University.

EMERGENCY RESPONSE

Campus Safety
Off Campus: 740-399-8686
On Campus: 740-397-9000, ext. 8686
campus.safety@mvnu.edu

Crisis Hotline
740-397-9000, ext. 5000

Mount Vernon Police
740-397-2222

Emergency Law Enforcement Response:
911 (from anywhere)

MEDICAL TREATMENT

Knox Community Hospital
1330 Coshocton Avenue
Mount Vernon, OH 43050
740-393-9000
Provides medical treatment and sexual assault forensic exams

Student Health Services
740-397-9000, ext. 4632
Emergency number: 740-507-0275
Provides medical treatment to students

New Directions: The Domestic Abuse and Rape Crisis Center of Knox County
Hotline: 740-397-5525
Will accompany to a sexual assault forensic exam

COUNSELING

Campus Counseling Center
counselingcenter@mvnu.edu
740-397-9000, Ext. 4610

REPORTING OPTIONS AT MVNU

(Private, but not confidential)

Office of Civil Rights
Christina Jones, J.D.
Civil Rights Director
Off Campus: 740-399-8250
On Campus: 740-399-9000, ext. 3250
www.mvnu.edu/titleix

Campus Safety
Off Campus: 740-399-8686
On Campus: 740-397-9000, ext. 8686
campus.safety@mvnu.edu

CONFIDENTIAL RESOURCES ON CAMPUS

The resources designated below can provide counseling, information, and support under confidentiality protections.

Campus Counseling Center
counselingcenter@mvnu.edu
740-397-9000, Ext. 4610

Student Health Services
740-397-9000, ext. 4632
Emergency number: 740-507-0275

Campus Pastor
740-397-9000, Ext. 4111

Associate Campus Pastor
740-397-9000 Ext. 4130

CONFIDENTIAL RESOURCES OFF CAMPUS

These off-campus, community resources can provide counseling, information and support under confidentiality protections.

New Directions: The Domestic Abuse and Rape Crisis Shelter of Knox County
Rape Crisis Center
24-Hour Hotline: 740-397-4357

Knox County Victim's Assistance
740-397-3404

Ohio Hispanic Coalition
24-Hour Hotline: 614-746-3534
Ohiohispaniccoalition.org

National Teen Dating Abuse Hotline
1-866-331-9474, loveisrespect.org

The Legal Aid Society of Columbus
614-224-8374
Columbuslegalaid.org

Disability Rights Ohio
800-282-9181
disabilityrightsohio.org/resource-center

Rights and Benefits of Reservists Called to Active Duty
chcoc.gov/content/rights-and-benefits-reservists-called-active-duty

Ohio Sexual Violence Helpline
1-844-644-6435, oaesv.org

BRAVO Equitas Health
866-862-7286
bravo.equitashealth.org

National Domestic Violence Hotline
800-799-7233 (SAFE), thehotline.org

Equality Ohio Legal Clinic
855-542-8529
equalityohio.org/legal-clinic

Rape, Abuse, and Incest National Network (RAINN)
800-656-4673, rainn.org

Religious Expression

Who We Are and What We Believe

Founded in 1968, Mount Vernon Nazarene University, in Mount Vernon, Ohio is a co-educational liberal arts university with an intentionally Christian foundation and mission. A combination of challenging academics, deep spirituality, and service-centered action prepares students for living purpose-filled lives and integrating knowledge with beliefs, values, and actions. Furthermore, as an extraordinary community of believers we are called as a community to "Shine Forth" in all we do.

MVNU encourages students, staff, and faculty to involve themselves in the local and international community by providing numerous opportunities for service and travel. With this distinctive global vision, the MVNU motto, "To Seek to Learn Is to Seek to Serve," continues to be fulfilled by all who walk the paths of those who have gone before us.

Being of Wesleyan heritage, and a ministry of the Church of the Nazarene, we strive to be a learning community where grace is foundational, truth is pursued, and holiness is a way of life. Furthermore, we attempt to make all policies and decisions within the doctrinal and moral convictions of the Church of the Nazarene as articulated within the Manual of the Church of the Nazarene (e.g., Articles of Faith, Covenant of Christian Conduct including the Statement on Human Sexuality and Marriage, Covenant of Christian Character, and the agreed upon Statement on Discrimination, 915). We also strive to provide a learning and living environment that promotes safety, transparency, personal integrity, civility, mutual respect and freedom from unlawful discrimination.

This integration of faith and learning is recognized by the United States and Ohio Constitutions and many state and federal laws. Therefore, it is a recognized right of religious educational institutions such as MVNU to incorporate religious beliefs into all aspects of university life and maintain faith-based standards of behavior which all community members voluntarily agree to follow.

MVNU seeks to recruit students of the Christian faith and to create an institutional environment conducive to their growth in Christ; however, we do not require that students be confessing Christians. We welcome and value students of every background and faith. As a Christian community, we expect that all of our students will respect the nature of our community, learn about our traditions and participate in our community practices. MVNU affirms that a Christian liberal arts education includes an understanding of and appreciation of the differences in faith, living, and practice.

As MVNU is a ministry of the Church of the Nazarene, it reserves the right to prefer employees on the basis of religion (Title VII, § 702-703, U.S. Civil Rights Act of 1964). Therefore, we expect that all of our employees will respect the nature of our community, learn about our traditions, participate in our community practices, and abide by the expected behavior as found within the Faculty and Staff Handbooks.

Civil Rights Policy

Title VI, Title VII, Title IX

Discrimination, Harassment, Sexual Misconduct

I. PURPOSE AND STATEMENT OF POLICY

Mount Vernon Nazarene University (MVNU) is committed to fostering a climate free from discrimination and harassment, through clear and effective policies, a coordinated education and prevention program, and prompt and equitable procedures for resolution of reports of conduct prohibited under this policy. The University encourages all members of its community to participate in the process of creating a safe, welcoming and respectful environment on campus.

- **Title VI**, 42 U.S.C. § 2000d et seq., was enacted as part of the landmark Civil Rights Act of 1964. It prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.

- **Title VII,** 42 U.S.C. § 2000e et seq., of the Civil Rights Act of 1964 helps protect individuals from discrimination in the workplace. It prohibits employment discrimination based upon race, color, national origin, sex and religion. Title VII also protects against harassment, which can be any physical or vocal conduct that creates an intimidating, hostile or offensive work environment. Conduct can be harassment if it interferes with a person's work performance.

- **Title IX,** 20 U.S.C. §1681 et seq., of the Title IX of the Education Amendments of 1972 protects people from discrimination based on sex in education programs or activities that receive federal financial assistance.

At MVNU, we believe that God is the Creator of all people. As we are made in His image, we believe that embracing and celebrating diversity brings us all closer together. As a ministry of the Church of the Nazarene *we renounce any form of racial and ethnic indifference, exclusion, subjugation, or oppression as a grave sin against God and our fellow human beings. We lament the legacy of every form of racism throughout the world, and we seek to confront that legacy through repentance, reconciliation, and biblical justice. We seek to repent of every behavior in which we have been overtly or covertly complicit with the sin of racism, both past and present; and in confession and lament we seek forgiveness and reconciliation* (Manual, 915). Our campus community benefits from the diversity of students, staff, and faculty. We are a community of individuals who seek to learn from, and about, one another. Diversity is expressed through racial, ethnic, age, ability, geographic, gender, cultural, and socioeconomic differences among the campus community. To such ends, MVNU will not tolerate violence, aggression or discrimination against members of its community on the basis of one's race, skin color, or national origin.

As MVNU seeks to be a community where all students, staff, and faculty are treated with dignity, grace, and holy love in the Spirit of Christ. We also recognize the complexity related to same-sex attraction, same-sex marriage, and gender identity. The University desires to faithfully care for its community while engaging these conversations with respect, care, humility, courage, and discernment. To such ends, MVNU will not tolerate violence, aggression or discrimination against members of its community due to sexual orientation or gender identity. However, according to the beliefs of the Church of the Nazarene, Residence Life housing assignments, intercollegiate athletic team assignments, use of single gender restrooms, and locker rooms are consistent with one's sex as indicated on provided birth documents. In addition, all MVNU clubs, student organizations, and student-assistant positions, including but not limited to resident assistants, student mentors, and graduate assistantships, must demonstrate support and adherence to MVNU's educational mission, identity, values, policies, outcomes, and commitment to a Christian community within the Wesleyan-Holiness tradition. As religious beliefs are incorporated into all aspects of university life, all community members voluntarily agree to abide by these faith-based standards of behavior (refer to Student Handbook, Faculty Handbook, Staff Handbook).

The University is committed to promoting respect for the bodily integrity of all persons, the virtues of chastity, and the sacredness of human sexuality. The University affirms that sexual relationships are designed by God to be expressed solely within a marriage between a man and a woman. Sexual activity outside the confines of marriage is inconsistent with biblical principles and is prohibited by MVNU policies.

MVNU recognizes the spiritual, moral, legal, physical, and psychological seriousness of ***all*** Prohibited Conduct that arises out of discrimination, harassment, and/or sexual misconduct. The University is committed to taking all appropriate steps to eliminate Prohibited Conduct, prevent its recurrence and address its effects. Individuals found responsible under this policy may face disciplinary sanctions up to and including dismissal from the MVNU and/or termination of employment.

The University will not tolerate retaliation against an individual who makes a report or participates in any proceedings under this policy. MVNU policy prohibits any form of retaliation and community members engaging in retaliation will be subject to disciplinary action, whether such acts are implicit or explicit, or committed directly or indirectly.

This policy provides the MVNU community with (1) resources and recourse for individuals who experience Prohibited Conduct, (2) guidance to a reporting party, complainant, respondent or other affected community members, (3) MVNU's expectations for healthy respectful interpersonal interaction and communication, and (4) a procedural outline for addressing behaviors that are counter to MVNU's mission and prohibited by this policy.

This policy provides for several paths by which an individual who experiences Prohibited Conduct may proceed, including seeking assistance from confidential resources, filing a report with the University and/or law enforcement, seeking supportive measures, and filing a formal complaint. The filing of a formal complaint may lead to an informal resolution, or to a formal investigation and resolution. See the Resolution Policy Flowchart and Section XI and XII, below.

As the Office of Civil Rights is a policy driven entity, it seeks to maintain federal compliance while maintaining its identity as a Christian liberal arts university. Thus, all the University proceedings under this policy are conducted in compliance with the requirements of Title IX, the Clery Act, as amended by The Violence Against Women Act (VAWA), the Family Educational Rights and Privacy Act (FERPA), and state and federal law, as may be applicable. No information shall be released from such proceedings except as required or permitted by law and MVNU policy.

The University emphasizes that every person, regardless of demographic or personal characteristics or identity, is entitled to the same protections against harassment and misconduct on the basis of a protected characteristic and that every individual will be treated with equal dignity and respect.

To that end, MVNU's objective is to provide a thorough and fair process.

II. GLOSSARY AND DEFINITIONS

Complainant. An individual who is alleged to have experienced conduct that could constitute Prohibited Conduct under this Policy.

Education Program or Activity. Includes all of the University's operations, including locations, events, or circumstances over which MVNU exercises substantial control over both the respondent and the context in which the conduct occurs; and any building owned or controlled by a student organization that is officially recognized by the University.

Formal Complaint. A document filed by and signed by a complainant or signed by the Civil Rights Director alleging harassment and/or discrimination based on a protected characteristic against a respondent AND requesting that the University investigate the allegation/s. Formal complaints must be filed in order to pursue either an Informal Resolution Process or a Formal Resolution.

Formal Resolution. A grievance process initiated when a formal complaint is signed and filed alleging harassment and/or discrimination based on a protected characteristic against a respondent, and also requests that the complaint be investigated. The Formal Resolution includes an investigation, a decision, and appeal. The decision-making process includes a live hearing when the complaint involves allegations of "Sexual Harassment – Title IX," as explained in greater detail in Section XI.G.

Informal Resolution Process. Alternate complaint resolution process available when a formal complaint is signed and filed alleging harassment and/or discrimination based on a protected characteristic against a respondent, and both parties agree to have the complaint resolved informally.

Mandated Reporter. Previously referred to as responsible employees. All University employees, student employees, and affiliated individuals are required to disclose to the Civil Rights Office any report of harassment or discrimination of which they are aware to ensure the University is able to provide a prompt, thorough, and supportive response. Confidential resources are exempt from this requirement as detailed in Section VI. Mandated reports do not require that complainants take any specific course of action, or any action at all, with regard to any process under this Policy.

Preponderance of the Evidence. A preponderance of the evidence means that the information or evidence provided is more likely than not to be true. When evaluating the information and evidence, the decision-maker(s) will first evaluate the quality. The decision-maker(s) will consider all of the information and evidence regardless of its origin. Any information or evidence the decision-maker(s) find to be of high quality should be given more weight than any information or evidence the decision-maker(s) find to be of low quality. Quality may or may not be identical with quantity, and sheer quantity alone should not be the basis for a finding of responsibility. The testimony of a single party or witness or a single piece of information or evidence may be sufficient to establish a fact.

Decisions that require the use of an evidentiary standard (determinations of responsibility, process appeals, challenges to Title IX dismissal, and findings of fact) will be made after the decision maker(s) assess the quality of the information or evidence and unanimously determine that the decision is justified. That is, the decision-maker(s) should find that there is sufficient evidence that is relevant, probable, and persuasive to convince them that a particular assertion is more likely than not and that the evidence supporting such an assertion outweighs any evidence to the contrary.

Prohibited Conduct. Conduct prohibited by this Policy and listed in Section VII. This includes Title IX-Sexual Harassment, Non-Title IX, Sexual Assault, Non-Title IX, Sexual Assault, Non-Title IV, Sexual Exploitation, Non-Title IX, Domestic Violence, Non-Title IX, Dating Violence, Non-Title IX, Stalking, Title VI and VII Discrimination on the Basis of a Protected Characteristic, and Retaliation.

Remedies. Measures determined to be necessary by the Hearing Chair (Title IX) or Adjudicator (non-Title IX) to restore or preserve the complainant's equal access to the University's education program or activity. Remedies will be determined and monitored by the Civil Rights Office throughout the Complainant's enrollment, employment, and/or engagement with the University.

Reporting Party. Any person who files a report of Prohibited Conduct.

Respondent. An individual who has been reported to have committed Prohibited Conduct. A respondent can be an individual or a student group or organization that is alleged to have engaged in conduct that violates this policy.

Supportive Measures. Non-disciplinary, non-punitive individualized services offered to both the complainant and respondent as appropriate, reasonably available, and without fee or charge. This is referred to as protective measures in the Clery Act Compliance Section, Section XVII.

Title IX Dismissal. If the conduct alleged in a formal complaint does not constitute sexual harassment as defined under Title IX, did not occur in an MVNU education program or activity, or did not occur against a person in the United States, MVNU must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX. When a complaint is dismissed under Title IX, it may be resolved through the Investigator Resolution Process as described in Section XI.G.5.

III. SCOPE OF POLICY

The University's Civil Rights policy applies to all students, faculty, staff, groups, members of the Board of Trustees, consultants, vendors, volunteers, others engaged in business with the University, guests and visitors**.** Every individual is responsible for acting in accordance with this policy and other MVNU policies and procedures. Any individual can be a reporting party or complainant.

Mount Vernon Nazarene University is committed to providing a work, learning, and living environment that provides equal opportunity for all and that is free from harassment and discrimination. Accordingly, harassment, discrimination or retaliation based upon race, color, age, national origin, sex, physical or mental disability, military or veteran status, or any other basis protected by applicable federal, state, or local law is strictly prohibited. Additionally, other inappropriate conduct of a harassing or offensive nature may be considered a violation of this policy.

MVNU also prohibits and will not tolerate discrimination or harassment in any of its programs or activities. Such actions are prohibited not only by University policy, as provided above, but also by applicable federal law, including Title VII of the Civil Rights Act of 1964, as amended, and Title IX of the Educational Amendments of 1972. Under Title IX, discrimination on the basis of sex can include sexual harassment or sexual violence.

While the University prohibits discrimination and harassment on the basis of disability, it is covered in the Grievance Procedures for the Americans with Disabilities Act and the Rehabilitation Act of 1973. Further information is available on MVNU's Accessibility Student Policy webpage at https://www.mvnu.edu/undergraduate/academics/css/accessibilityservices and the MVNU Employee and Visitor Grievance Procedure to resolve complaints under ADA/Section 504 within the Staff and Faculty Handbook and/or www.mvnu.edu/titleix.

This policy applies to all forms of Prohibited Conduct that:

- Occur on campus;
- Occur in any MVNU education or employment activities and programs; or
- Have continuing adverse effects on campus, on any member of the MVNU community, or in the context of any MVNU education or employment activities and programs, regardless of where the conduct occurred.

Upon receipt of a report, the University will take prompt and effective action by: providing supportive measures and support for individuals who make a report or seek assistance under this policy; considering the wishes of an individual regarding supportive measures they are to receive; conducting a review of the conduct; addressing the safety of the complainant and the campus community; and as appropriate, pursuing resolution through informal resolution or formal disciplinary action against the accused individual. Regardless of whether a complainant chooses to pursue disciplinary action, the University will offer reasonably available supportive measures to protect the parties involved and address safety, emotional and physical well-being concerns. The University will not tolerate retaliation and will take immediate and responsive action to any report of retaliation or any violation of supportive measures.

The University may also hold individuals and groups responsible for off-campus conduct that is prohibited by the Student, Staff or Faculty Handbooks. Regardless of when, where or with whom the conduct was reported to have occurred, the University will offer resources, assistance and reasonably available supportive measures to any individuals who have been affected by Prohibited Conduct.

MVNU supports the free exchange of ideas in the Christian academic enterprise and shall interpret this policy in a way that protects such an exchange. The central mission of the University, a Christian liberal arts education, requires free and open inquiry in matters with intellectual hospitality. Thus, students and faculty should have the broadest possible latitude to speak, write, listen, challenge, and learn. By listening to and challenging those with whom we disagree, we open ourselves to the possibility of learning. And even when debates and arguments do not change our opinions, they may help us understand their grounds more fully and improve our ability to defend them rationally and persuasively as Christ-followers.

The University extends this protection of expression to all MVNU community members. However, this protection is bound by prohibitions against the types of discrimination and harassment in this policy. Expression that causes the types of impact noted in this policy does not contribute to the free exchange of ideas and beliefs supported by the University, but instead denies others the ability to fully access our educational programs and activities. This type of expression is antithetical to our mission and will not be tolerated.

IV. NOTICE OF NON-DISCRIMINATION

Mount Vernon Nazarene University is committed to fostering a non-discriminatory campus environment in which community members can learn and work. MVNU prohibits discrimination on the basis of race, sex, age, color, national origin, disability, marital status, or military service in the operation of all University programs, activities, and services. As a faith-based institution, the University is exempted from certain laws and regulations concerning discrimination. The University maintains the right, with regard to its lifestyle covenant, employment, and other matters, to uphold and apply its Christian beliefs related to, among other issues, marriage, sex (gender), gender identity, sexual orientation, and sexual activity to the fullest extent permitted by law. Thus, MVNU attempts to make all policies and decisions within the doctrinal and moral

convictions of the Church of the Nazarene (e.g., Articles of Faith, Covenant of Christian Conduct including the Statement on Human Sexuality and Marriage, Covenant of Christian Character, and the Statement on Discrimination, 915).

Sex discrimination is prohibited by Title IX of the Education Amendments of 1972, and its implementing regulations (34 C.F.R. Part 106, as amended by 85 FR 30026 (May 19, 2020)), a federal law that provides that: *No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance, including admissions and employment*. Prohibited Conduct under this policy is also prohibited under the Clery Act as amended by VAWA, Title VII of the Civil Rights Act of 1964, Ohio Revised Code Chapter 4112, and other applicable statutes, regulations and administrative code provisions.

Inquiries or complaints concerning the application of Title IX may be referred to the University's Civil Rights Director/TIX Coordinator and/or the United States Department of Education:

Civil Rights Director / TIX Coordinator / 504 Coordinator
Christina A. Jones
Lakeholm 109
Mount Vernon Nazarene University
800 Martinsburg Road
Mount Vernon, OH 43050
Off Campus: 740-399-8250 / On Campus: 740-399-9000, ext. 3250
www.mvnu.edu/titleix

Office for Civil Rights, Cleveland Office
U.S. Department of Education
1350 Euclid Avenue, Suite 325
Cleveland, OH 44115
216-522-4970, 216- 522-2573 (fax), OCR.Cleveland@ed.gov

V. ROLE OF THE CIVIL RIGHTS DIRECTOR

The University has designated and authorized Christina Jones as the Civil Rights Director that includes the roles of Title IX Coordinator and 504 Coordinator. The Civil Rights Director will be informed of all reports of Prohibited Conduct shared with designated MVNU employees, and will manage the University's centralized review, investigation, and resolution of those reports to ensure MVNU's compliance with and the effective implementation of this policy. All references to actions by the Civil Rights Director may be performed by the Civil Rights Director or a designee and may appoint deputy coordinators as needed.

The Civil Rights Director is:

- Knowledgeable and trained in MVNU policies and procedures and relevant state and federal laws;

- Available to advise any individual, including a reporting party, complainant, or respondent about the courses of action, formal or informal, available at the University and in the community;
- Responsible for offering and implementing reasonably available supportive measures;
- Available to provide assistance to any MVNU employee regarding how to respond appropriately to a report of Prohibited Conduct;
- Responsible for monitoring full compliance with all procedural requirements, record keeping and timeframes outlined in this policy;
- Responsible for managing training, prevention and education efforts and annual reviews of climate and culture; and
- Responsible for facilitating periodic review of this policy as needed to maintain compliance with state and federal law.

In addition to addressing complaints against a particular party, the Civil Rights Director also facilitates the handling of reports raised that MVNU policies or practices may discriminate on the on the basis of race, gender, age, color, national origin, disability, marital status, or military service. The Civil Rights Director conducts an assessment of such concerns and, using procedures the Civil Rights Director determines to be appropriate given the circumstances and works with the University to ensure that its policies and practices are compliant.

VI. REPORTING

The University encourages prompt reporting of Prohibited Conduct. To make a report about possible harassment, discrimination, or misconduct occurring on the basis of a protected characteristic, a party or any third party should notify the Civil Rights Director or designated University officials. A report may be made at any time, including during non-business hours, in person, by telephone, by mail, by email to the Civil Rights Director, or by completing the online Incident Report, or to Ohio's Office of Civil Rights.

- **Civil Rights Director / TIX Coordinator / 504 Coordinator**
  - Lakeholm 109
  - Off Campus: 740-399-8250 / On Campus: 740-399-9000, ext. 3250
  - www.mvnu.edu/titleix

- **Campus Safety** (24-hour availability)
  - On Campus: 740-399-8686
  - Off Campus: 740-399-9000, ext. 8686
  - campus.safety@mvnu.edu

- **Any Non-Confidential University employee**

- **Online Incident Report form** at www.mnvu.edu/titleix

A complainant does not need to provide a definitive label of their experience at the time a report is made, nor do they have to decide on a particular course of action in advance. Choosing to make a report, and deciding how to proceed after making the report, can be a process that unfolds over time. The University will offer reasonably available supportive measures consistent with Section X. MVNU also provides support that can assist a complainant in making these important decisions, and to the extent possible, will respect a complainant's autonomy in deciding how to proceed. The University will seek to balance a complainant's interest with its responsibility to provide a safe and non-discriminatory environment for all members of the MVNU community.

The University encourages all individuals to seek assistance from medical provider(s) and/or law enforcement immediately after an incident of Prohibited Conduct, whether or not the complainant plans to pursue criminal charges. This is the best option to ensure preservation of evidence and to begin a timely response by law enforcement.

If a member of the MVNU community believes the Civil Rights Director has engaged in Prohibited Conduct or has otherwise behaved inappropriately, the MVNU member should contact the President of Mount Vernon University to discuss the complaint process.

A. Privacy

Privacy generally means that information related to a report of Prohibited Conduct will only be shared with those MVNU employees who "need to know" in order to assist in the active review, investigation, or resolution of the report, including the issuance of supportive measures. MVNU will determine which employees have a legitimate need to know about individual conduct complaints pursuant to FERPA, Title IX, the Clery Act, and University policy, and will share information accordingly. MVNU may notify the parents or guardians of any dependent students who are respondents regarding conduct charges or sanctions, particularly disciplinary probation, loss of housing, suspension and dismissal.

B. Confidentiality

There is a distinction between seeking assistance from a confidential resource and making a report to the University through designated reporting options. Confidential resources, including counselors, student health providers, campus pastor, associate campus pastor, and certified rape crisis counselors, have legally protected confidentiality and will not share information about a complainant (including whether or not that individual has received services) except under limited circumstances as permitted or required as described below. In contrast, all other MVNU employees are required to share information with the University's Civil Rights Director or designee. For a list of confidential resources, please refer to the "How To Get Help" Section above.

Limits to confidentiality include:

1. **Mandatory Reporting of Child Abuse.** All MVNU employees, including confidential resources, are required to immediately report any knowledge or reasonable suspicion that

a minor (someone under 18 years old) is experiencing abuse or neglect based on information shared by the minor, any other individual, or one's own observations or knowledge. View the University's policy regarding the protection of minors on campus. See Section VI.D. for more information.

2. **Ohio Felony Reporting Requirement.** Under Ohio law, all individuals, excluding confidential resources, must report possible felonies, including sexual violence. Under Ohio Revised Code Section 2921.22, medical professionals, mental health professionals and clergy are not required to report felonies. See Section VI.E. for more information.
3. **Ohio Medical Professional Reporting Requirements.** In Ohio, medical professionals have distinct legally mandated reporting responsibilities. Where a medical professional knows or has reasonable cause to believe that serious physical harm resulted from an offense of violence, the medical professional is required to make a report to law enforcement. Medical professionals must deem a patient medically stable before reporting and must communicate to the patient that the patient does not have to report and/or speak to the police. If the patient chooses not to speak to police at the time of the medical examination, the medical professional does not need to report the patient's name — only the date, general time, and general location of the incident.
4. **Risk of Harm to Self or Others.** Mental health professionals are required to disclose information where there is an imminent threat of harm to self (the client) or others.
5. **Clery Act Reporting.** Pursuant to the Clery Act, anonymous statistical information for certain offenses that have been reported at campus locations must be shared with Campus Safety. The information does not include the names or any other identifying information about the persons involved in such incidents.

C. Anonymous Reporting

Any individual may make an anonymous report concerning an act of Prohibited Conduct. A report can be made without disclosing one's own name, identifying the respondent, or requesting any action. Depending on the level of information available about the incident or the individuals involved, anonymous reporting may limit the University's ability to respond or take further action.

Anonymous reports can be submitted through the University's online Incident Report at www.mvnu.edu/titleix. Follow-up communications with the person submitting the anonymous report are not possible unless contact information is provided. As with all other reports, anonymous reports will be shared with the Civil Rights Director. Where there is sufficient information, the University will ensure that anonymous reports are reviewed and included for compliance with the Clery Act.

Responsible employees, i.e., mandated reporters, who have a duty to report information to the Civil Rights Director under this policy may not make such reports anonymously.

D. Protection of Minors

All MVNU employees are required to report any knowledge or reasonable suspicion that a minor (under 18 years old) is experiencing abuse or neglect based on information shared by the minor,

any other individual, or one's own observations or knowledge. An MVNU employee suspecting abuse or neglect is required to bring all suspicions to the immediate attention of Campus Safety. If a minor is in immediate danger, call 911. If there is no immediate danger, call MVNU Campus Safety at 740-399-8686 or 740-399-9000, ext. 8686 and the University's Civil Rights Director at 740-399-8250 or 740-399-9000, ext. 3250.

All University employees, including confidential resources, are required to immediately report any knowledge or reasonable suspicion of child abuse or neglect to the Civil Rights Director and MVNU Campus Safety. In Ohio, a child is defined as anyone under 18. In addition to notifying the Civil Rights Director and Campus Safety, University employees must make a direct report to:

Knox County Children's Services Child Abuse Hotline
24-hour hotline: 740-392-5437

The source of abuse does not need to be known in order to file a report, nor is there a requirement that there is actual evidence of abuse before making a report. For more information, view the University's policy regarding the protection of minors on campus.

E. Reporting to Law Enforcement

The Civil Rights Director or a Campus Safety Officer will assist a complainant, at the complainant's request, in contacting local law enforcement. If a complainant decides to pursue the criminal process the University will cooperate with law enforcement agencies. A complainant has the right to choose whether to notify, or decline to notify law enforcement, except when the allegation is a felony charge under the law. Felonies reported to the University (except to confidential resources) must be reported to law enforcement by the University, as required by Ohio law (Ohio Revised Code 2921.22). Under most circumstances, the complainant may decline to participate in a law enforcement investigation. Where MVNU makes a report to law enforcement under this section, the University will not share the names of the involved parties without permission from the complainant unless the information is subject to subpoena or other binding legal process by law enforcement.

The University's policy, definitions, and burden of proof may differ from Ohio criminal law. A complainant may seek resolution through the MVNU's resolution process, may pursue criminal action, may choose one but not the other, or may choose both options. Neither law enforcement's determination whether or not to prosecute a respondent nor the outcome of any criminal prosecution are determinative of whether Prohibited Conduct has occurred under this policy. Proceedings under this policy may be carried out prior to, concurrent with, or after civil or criminal proceedings off campus as determined by the Civil Rights Director.

F. Campus Reporting Options

To enable the University to respond to all reports in a prompt and equitable manner, MVNU encourages all individuals to report any incident directly to the Civil Rights Director. However, the University recognizes that a student or employee may choose to report to any employee of MVNU.

All MVNU employees (except those who are designated as confidential resources) are considered mandatory reporters and are required to share all known information related to a report, including the identities of the parties, with the Civil Rights Director. In addition, student employees who have responsibility for the welfare of other students, including Resident Assistants and Student Mentors, are required to report all known information. Other student employees who receive information within the context of their jobs are required to report to the Civil Rights Director.

- **Civil Rights Office**
  - Christina Jones, Director / TIX Coordinator / 504 Coordinator: Lakeholm 109, Off Campus: 740-399-8250 / On Campus: 740-399-9000, ext. 3250**,** www.mvnu.edu/titleix

- **Office of Campus Safety**
  - Ben Cook, director of Facilities Operations and Campus Safety Campus emergency (24 hour availability): On Campus: 740-399-8686 / Off Campus: 740-399-9000, ext. 8686, campus.safety@mvnu.edu

** Reports can be made directly to Campus Safety (24-hour availability) during non-business hours using the Incident Report form online.*

G. Reporting Considerations

Timeliness of Report

In order to maximize the University's ability to respond promptly and effectively, all those impacted by Prohibited Conduct are encouraged to report as soon as possible. There is no time limit on reporting violations of this policy, though prompt reporting by mandated reporters is required. If the respondent is no longer a student or employee at the time of the report, the University may not be able to take disciplinary action against them. The University will still provide support and reasonably available supportive measures to a complainant, as well as assistance in identifying appropriate external reporting options.

Amnesty for Personal Use of Alcohol or Other Drugs

The University seeks to remove barriers to reporting, including potential concern about policy violations related to underage drinking or the use of prohibited drugs. MVNU will offer any student who reports or experiences Prohibited Conduct limited immunity from being charged for policy violations related to the personal ingestion of alcohol or other drugs, provided that any such violations did not and do not place the health and safety of any person at risk. The University may choose, however, to pursue educational or therapeutic remedies for those individuals, rather than punishment. MVNU desires to encourage its community members to offer help to others in need.

H. Report Resolution

A report to the Civil Rights Director is not the same as a formal complaint. In order for a report to be officially resolved, a formal complaint must be filed in writing alleging prohibited conduct against a respondent and requesting that the University officially investigate and resolve the allegation. The complaint may be resolved through either Informal Resolution Process (Section XI.F.) or through the Formal Track (Section XI.G.).

VII. Prohibited Conduct

Federal regulations provide for certain procedures that must be used in the case of conduct that meets the definition of "sexual harassment" under Title IX. However, where sex-based discriminatory conduct does not meet certain threshold requirements under Title IX, it may still violate other anti-discrimination provisions of this policy. Sex-based discriminatory misconduct that rises to a level covered by **Title IX** is described below as "Title IX" conduct and will be processed under the University's Title IX procedures described below and in the Civil Rights Resolution Process Flowchart. Sex-based discriminatory conduct that falls short of the Title IX's standard described below as "**Non-Title IX**" conduct will be reviewed under the Investigator Resolution Non-Title IX procedure described below. Other forms of Prohibited Conduct that are not based on sex will also be reviewed under an Investigator Resolution Process. Both of these processes are outlined in the Resolution Process Flowchart found in Appendix A.

This policy also prohibits all forms of discrimination and discriminatory harassment on the basis of a Protected Characteristic as provided in **Title VI** and **Title VII.** Furthermore, the policy prohibits retaliation against any individual participating in any role in a reporting, investigation, or resolution process under this Policy.

A. Title IX – Sexual Harassment Prohibited Conduct

For reported behavior to qualify as Prohibited Conduct under this section, in addition to meeting the elements of the specific type of sexual harassment below, it must meet all of the following **threshold requirements,** as determined by the Civil Rights Director and as mandated by federal regulations:

1. The conduct must have occurred against a person in the United States.
2. The conduct must have occurred within the University's education program or activity. For purposes of this provision, this means that the conduct must have occurred either (a) in a location, event, or circumstances over which MVNU exercised substantial control over both the respondent and the context in which the sexual harassment occurs or (b) in relation to a building owned or controlled by a student organization that is officially recognized by the MVNU.
3. The complainant must be participating in or attempting to participate in the education program or activity of the University at the time the formal complaint is filed.

Conduct that does not meet these threshold requirements is subject to a Title IX Dismissal, but may still be resolved through the Investigator Resolution Process (Non-Title IX) as described more fully in Section XI.G.5.

There are six types of prohibited conduct that qualify as "sexual harassment" under Title IX, each of which is defined more specifically below: (1) quid pro quo sexual harassment, (2) unwelcome conduct sexual harassment, (3) sexual assault, (4) dating violence, (5) domestic violence, and (6) stalking. The definitions used here are required by federal regulations.

1. **Quid Pro Quo.** Conduct on the basis of sex where an MVNU employee conditions the provision of a university aid, benefit, or service on an individual's participation in unwelcome sexual conduct; or,
2. **Unwelcome Conduct.** Unwelcome conduct on the basis of sex that is determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or,
3. **Sexual Assault.** Sexual assault is engaging or attempting to engage in one of the following activities with another individual without consent or where the individual cannot consent because of age or temporary or permanent mental incapacity:
    - Sexual intercourse (anal, oral, or vaginal), including penetration with a body part (e.g. penis, finger, hand, or tongue) or an object, however slight;
    - Intentional touching of the intimate body parts of another for the purpose of sexual gratification. Intimate body parts include the breasts, buttocks, groin, and genitals.
    - Sexual intercourse (anal, oral, or vaginal) between individuals who are not permitted to marry. In Ohio, this means that individuals closer in kin than second cousins may not have sexual intercourse.
    - Sexual intercourse (anal, oral, or vaginal) with a person who is under the statutory age of consent. In Ohio, state law prohibits sex with any individual under the age of 13; additionally, individuals over the age of 18 may not have sex with individuals under the age of 16.
4. **Dating violence.** Conduct on the basis of sex that consists of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on the complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
5. **Domestic violence.** A felony or misdemeanor crime of violence constituting conduct on the basis of sex committed by:
    - a current or former spouse or intimate partner of the victim;
    - a person with whom the victim shares a child in common;
    - a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
    - a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or

- 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 in which the crime of violence occurred.

6. **Stalking.** Conduct on the basis of sex that consists of engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or suffer substantial emotional distress. Cyberstalking is a form of stalking in which electronic forms of contact are used. For the purposes of this definition:
   - Course of conduct means two or more acts, including, but not limited to, acts in which the respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property;
   - Reasonable person means a reasonable person under similar circumstances and with similar identities to the complainant; or,
   - Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

B. Non-Title IX Sexual Misconduct Prohibited by University Policy

1. Non-Title IX Sexual Assault: As defined in the Title IX Sexual Assault definition above that did not reportedly occur in a program or activity of the University in the United States.

- **Non-Consensual Sexual Contact:** Any intentional touching of a person's breasts, buttocks, groin, genitals, or other intimate parts without consent. Touching may be over or under clothing and may include the respondent touching the complainant, the respondent making the complainant touch the respondent or another person, or the respondent making the complainant touch the complainant's own body.

2. Sexual and Gender-Based Harassment

- **Sexual Harassment:** Sexual harassment is any unwelcome sexual advance, requests for sexual favor, and/or other verbal or physical conduct of a sexual nature when one of the conditions outlined in (1), (2), or (3), below, is present.
- **Gender-Based Harassment:** Gender-based harassment includes harassment based on gender, sexual orientation, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, even if the acts do not involve contact of a sexual nature, when one of the conditions outlined in (1), (2), or (3), below, is present.
  1. Submission to, or rejection of, such conduct is made implicitly or explicitly a term or condition of a person's instruction, academic standing, employment, or participation in any University program, activity, or benefit, but which does not fit within the definition of Title IX Quid Pro Quo.
  2. Submission to, or rejection of, such conduct by an individual is used as a basis for evaluation in making academic or personnel decisions, in

circumstances that do not fit within the definition of Title IX Quid Pro Quo.

3. Such conduct creates a hostile environment. A Non-Title IX hostile environment exists:
    - in the employment context, when it unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment; or
    - in the education context, when it is sufficiently severe, persistent, or pervasive that the conduct interferes with a student's ability to participate in or benefit from the University's educational programs or activities.

A single incident of Non-Title IX- Sexual Harassment alone may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a pattern of incidents to create a hostile environment. The determination of whether an environment is "hostile" will be based on the totality of the circumstances, including, but not limited to:

- The frequency of the speech or conduct;
- The nature and severity of the speech or conduct;
- Whether the speech or conduct was physically threatening;
- The effect of the speech or conduct on the individual's mental and/or emotional state;
- Whether the speech or conduct was directed at more than one person;
- Whether the speech or conduct arose in the context of other discriminatory conduct;
- Whether the speech or conduct unreasonably interfered with the individual's educational opportunities or performance (including off campus study), MVNU-controlled living environment, work opportunities or performance;
- Whether a statement is a mere utterance of an epithet that engenders offense in an employee or a student or offends by mere discourtesy or rudeness; and/or
- Whether the speech or conduct is protected by the First Amendment and/or deserves the protections of academic freedom.

<u>Non-Title IX - Sexual Harassment can take many forms:</u>

- May be blatant and intentional and involve an overt action, a threat or reprisal, or may be subtle and indirect, with a coercive aspect that is unstated;
- Does NOT have to include intent to harm, be directed at a specific target, or involve repeated incidents;
- May be committed by anyone, regardless of gender, age, position, or authority;
- May be committed by a stranger, an acquaintance, or someone with whom the individual has an intimate or sexual relationship;
- May be committed by or against an individual or may be a result of the actions of a group;

- May occur by or against an individual of any sex, gender identity, gender expression, or sexual orientation;
- May occur in the classroom, in the workplace, in residential settings, over electronic media (including the internet, telephone, and text), or in any other setting; and
- May affect the individual and/or others who witness or observe the harassment.

There may be situations where respondent's reported conduct constitutes both "Title IX -Sexual Harassment" and "Non-Title IX- Sexual Harassment." The respondent will receive notice of both charges and the resolution process will investigate both charges. If the reported conduct is adjudicated and the respondent is found responsible for the charge of "Title IX - Sexual Harassment," the respondent will not be separately sanctioned for the charge of "Non-Title IX – Sexual Harassment."

3. Sexual Exploitation: Any act where one person violates the sexual privacy of another or takes unjust or abusive sexual advantage of another, but that does not fall within the definition of Title IX Sexual Harassment. Sexual exploitation may include:

- surreptitiously observing another individual's nudity or sexual activity or allowing another to observe consensual sexual activity without the knowledge and consent of all parties involved;
- recording, photographing, transmitting, showing, viewing, streaming, or distributing intimate or sexual images, audio recordings, or sexual information without the knowledge and consent of all parties involved;
- providing alcohol or drugs to a complainant with the intent to facilitate Prohibited Conduct;
- exposing one's genitals or inducing another to expose their own genitals in non-consensual circumstances; or
- knowingly exposing someone to or transmitting an STI or HIV.

4. Non-Title IX Domestic Violence: Domestic violence as defined in the Title IX Domestic Violence definition above that did not reportedly occur in a program or activity of the University in the United States.

5. Non-Title IX Dating Violence: Dating violence as defined in the Title IX Dating Violence definition above that did not reportedly occur in a program or activity of the University in the United States.

6. Non-Title IX Stalking: Stalking as defined in the Title IX Stalking definition above that did not reportedly occur in a program or activity of the University in the United States, or that otherwise fits within the definition of stalking but does not fall within the Title IX Stalking definition because the reported conduct is not directed at the alleged victim on the basis of sex.

Sections that pertain to TIX are subject to change upon revised Federal regulations.

C. Title VI and Title VII - Discrimination on the Basis of a Protected Characteristic Prohibited Conduct

- **Title VI**, 42 U.S.C. § 2000d et seq., was enacted as part of the landmark Civil Rights Act of 1964. It prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.

- **Title VII,** 42 U.S.C. § 2000e et seq., of the Civil Rights Act of 1964 helps protect individuals from discrimination in the workplace. It prohibits employment discrimination based upon race, color, national origin, sex and religion. Title VII also protects against harassment, which can be any physical or vocal conduct that creates an intimidating, hostile or offensive work environment. Conduct can be harassment if it interferes with a person's work performance.

Discrimination occurs when a behavior or policy has the purpose or effect of restricting or denying an individual's or a group's access to programs or resources recognized and provided by MVNU in relation to a protected characteristic in a manner that interferes with an individual's working, academic, or residential life.

Discriminatory Harassment is any unwanted verbal or physical conduct on the basis of a protected characteristic when one or more of the following conditions is present:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, participation in a program or activity, or grade in a course or coursework;
- Submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting an individual; or
- Such conduct is sufficiently pervasive, offensive, or abusive to have the purpose or reasonable effect of interfering with an individual's work or educational performance, or creating an intimidating, hostile, or offensive work or educational environment, under both an objective and subjective standard. A single incident may create a hostile environment if the incident is sufficiently severe.

The determination as to whether a hostile environment exists is based on the totality of the circumstances, including but not limited to:

- The nature and severity of the conduct;
- The type, frequency and duration of the conduct;
- The identity of, and relationship between, the respondent and the complainant;
- The number of individuals involved;
- The age and maturity levels of the respondent and complainant; and
- The location of the conduct and the context in which it occurred.

The University recognizes that, in some cases, behavior that may otherwise appear to constitute discrimination based on the above definitions may nevertheless be permissible under federal and state laws, regulations, and guidance. In such cases, permissible actions under such laws, regulations, and guidance shall ***not*** be considered a violation of this Policy. For example, the

offering of or participation in programs for the benefit of veterans and/or military personnel constitutes the provision of different aid, benefits, or services on the basis of veteran/military status, but it is permissible under federal law and therefore would not constitute a violation of this policy. Discrimination on the basis of sex/gender in employment is permissible in situations where sex/gender is a bona fide occupational qualification reasonably necessary to the normal operation of the University. Note that the federal regulations regarding Title IX include certain exceptions, such as single-gender housing, athletic participation and chorus participation, that do not constitute Sex/Gender Discrimination. Moreover, MVNU may incorporate religious beliefs into all aspects of university life and maintain faith-based standards of behavior which all community members voluntarily agree to follow.

***Christian faith and employment at Mount Vernon Nazarene University**: MVNU is a ministry of the Church of the Nazarene. It reserves the right to prefer employees on the basis of religion (Title VII, § 702-703, U.S. Civil Rights Act of 1964).

D. Retaliation

Intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations or this policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing regarding Prohibited Conduct (including both Title IX Sexual Harassment and Non-Title IX Misconduct).

Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations, constitutes retaliation, as does any adverse action taken against a person for making a good faith report of Prohibited Conduct or participating in any proceeding under this Policy.

It is also a violation of Title VII for an employer to retaliate against an applicant or employee for opposing an act of discrimination and for filing a charge of discrimination with the EEOC or otherwise participating in an EEOC discrimination proceeding.

E. False Reports - Participating in Bad Faith

Students and employees will not suffer adverse consequences as a result of reporting a matter involving sexual misconduct in good faith. However, the protocol shall not be used to initiate frivolous or malicious charges without regard to the truth. After the completion of remediation efforts, if the Civil Rights Director concludes that a party or witness made materially false statements in bad faith, the Director may recommend disciplinary action against the complainant, up to and including expulsion or termination from the University. Guidelines from the student, staff, or faculty code of conduct handbooks may be used to determine sanction.

VIII. CONSENT, FORCE, COERCION, INCAPACITATION

A. Consent

Individuals who choose to engage in sexual activity of any type with each other must first obtain clear consent. Consent is clear, knowing, and voluntary permission. It can only be given by someone of legal age. Consent is demonstrated through mutually understandable words or actions that clearly indicate a willingness to engage freely in sexual activity. Consent cannot be obtained through the use or threat of physical force, intimidation, or coercion, or any other factor that would eliminate an individual's ability to exercise free will to choose whether or not to have sexual contact. Silence cannot be assumed to indicate consent.

Each participant in a sexual encounter is expected to obtain and give consent to each act of sexual activity in order for the activity to be considered consensual. Consent to one form of sexual activity does not constitute consent to engage in all forms of sexual activity.

Consent consists of an outward demonstration indicating that an individual has freely chosen to engage in sexual activity. While consent can be given by words or non-verbal actions, non-verbal consent is more ambiguous than explicitly stating one's wants and limitations. Relying on non-verbal communication can lead to misunderstandings. Consent may not be inferred from silence, passivity, lack of resistance, or lack of an active response. A person who does not physically resist or verbally refuse sexual activity is not necessarily giving consent.

When consent is requested verbally, absence of any explicit verbal response or a clear non-verbal response constitutes lack of consent. A verbal "no" constitutes lack of consent, even if it sounds insincere or indecisive. Under this policy, "no" always means "no." "Yes" only means "yes" when it is voluntarily and knowingly given by an individual who has the capacity to give consent.

If at any time during the sexual activity, any confusion or ambiguity arises as to the willingness of other individuals to proceed, all parties should stop and clarify, verbally, the other's willingness to continue before proceeding with such activity.

Any party may withdraw consent prior to the completion of the act. Withdrawal of consent should be outwardly demonstrated by words or actions that clearly indicate a desire to end sexual activity. Once withdrawal of consent has been expressed, sexual activity must cease.

Individuals with a previous or current intimate relationship do not automatically give either initial or continued consent to sexual activity. Even within the context of a relationship, there must be mutually understandable communication that clearly indicates a willingness to engage in sexual activity each time.

Individuals must be able to fully understand what they are doing in order to consent to sexual activity. An individual who is incapacitated is unable to give consent. See Incapacitation in Section VIII.D. for further discussion.

In the State of Ohio, the age of majority is 18. Under state law, consent cannot be given by any individual under the age of 16 to participate in sexual activity with an individual over the age of 18. In addition, consent can never be given by minors under the age of 13.

B. 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. There is no requirement that a party resists the sexual advance or request. Consent cannot be obtained by force.

C. Coercion

Coercion is the use of unreasonable pressure to compel another individual to initiate or continue sexual activity in a way that makes the participation involuntary. Consent for sexual activity must be clear, knowing, and voluntary. The reasonable person standard is used to establish whether participation was voluntary. Coercion contains a wide range of behaviors which override the voluntary nature of participation. Such acts include, but are not limited to, threatening to disclose personal sexual information, or threatening to harm oneself if the other party does not engage in the sexual activity. Coercing an individual into engaging in sexual activity violates this policy in the same way as physically forcing someone into engaging in sexual activity. Consent cannot be obtained by coercion.

D. Incapacitation

An individual who is incapacitated lacks the ability to make informed, rational judgments and cannot consent to sexual activity. 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. In addition, persons with certain intellectual or developmental disabilities may not have the capacity to give consent. Consent cannot be obtained by taking advantage of another individual's incapacitation.

Where alcohol or other drugs are involved, incapacitation is a state beyond intoxication. The impact of alcohol and other drugs varies from person to person; however, warning signs that a person may be approaching incapacitation may include slurred speech, vomiting, unsteady balance, strong odor of alcohol, combativeness, or emotional volatility.

Evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects an individual's:

- Decision-making ability;
- Awareness of consequences;

- Ability to make informed judgments;
- Capacity to appreciate the nature and the quality of the act; or
- Level of consciousness.

In other words, a person may be considered unable to give valid consent due to incapacitation if the person cannot appreciate the who, what, where, when, why, or how of a sexual interaction.

Evaluating incapacitation also requires an assessment of whether a respondent was or should have been aware of the complainant's Incapacitation based on objectively and reasonably apparent indications of impairment when viewed from the perspective of a sober, reasonable person in the respondent's position.

Evidence of incapacity will come from context clues, such as:
- Slurred speech
- Bloodshot eyes
- The smell of alcohol on the breath
- Shaky equilibrium
- Vomiting
- Outrageous or unusual behavior
- Unconsciousness (including blackout)

Being intoxicated or impaired by drugs or alcohol is never an excuse for any Prohibited Conduct under this policy and does not diminish one's responsibility to obtain informed and freely given consent.

IX. Relationships

Within this section, the following terms and definitions apply:

- **Affiliated Individuals.** Employees, trustees, vendors and volunteers.
- **Employee.** Faculty member, exempt-staff member, or non-exempt staff member
- **Trustees.** Active members of the Board of Trustees of MVNU
- **Vendors.** Organizations engaged in a contractual relationship with the University to execute a specific function. Such functional areas include, but may not be limited to: food service, contractors, etc.
- **Volunteers.** Alumni, parents and friends of the University who volunteer to assist the University with certain events, functions, and committees.
- **Student-staff.** Undergraduate students enrolled at the University who are employed by MVNU.

For the purposes of this section of the Policy, a "relationship" is defined as a single date or sexual encounter.

Relationships Between Affiliated Individuals and Students

All affiliated individuals are prohibited from initiating, engaging in, or attempting to engage in, sexual or dating relationships with any student. An affiliated individual involved in a sexual or dating relationship with a student which began prior to their engagement with the University is exempt from this prohibition, as is an employee whose spouse or domestic partner is a student. If, however, the relationship is with someone the affiliated individual supervises, directly evaluates or officially mentors, the relationship must be disclosed as outlined in the paragraph below ("Disclosures") so that appropriate action — such as changing the reporting or grading structure — can be taken.

Relationships Between Individuals in a Supervisory Relationship

All affiliated individuals and student-staff are prohibited from engaging in sexual or dating relationships with anyone under their direct supervision or whom they officially evaluate or mentor. They are further prohibited from officially supervising, evaluating or mentoring anyone with whom they had a relationship in the past, regardless of the consensual nature of the relationship. If such a situation exists or develops, the relationship must be disclosed as outlined in the paragraph below ("Disclosures") so that appropriate action — such as changing the reporting structure — can be taken.

Other Relationships

Sexual and dating relationships in which there is a power differential, even when the differential does not fall into one of the above categories, may raise questions of sexual harassment or suspicions of unprofessional conduct (e.g., conflict of interest, abuse of authority, favoritism, and unfair treatment). For this reason, even relationships that are not officially supervisory or mentoring in nature may require extra sensitivity where such a power differential occurs. Anyone concerned that issues described in this paragraph have developed (or may develop) in a relationship they are aware of or a part of is encouraged to seek guidance from the Civil Rights Director.

Disclosures

All disclosures of existing relationships and reports of concerns should be made to the Civil Rights Director. The Director, at their discretion, may inform the appropriate supervisor and/or the Director of Human Resources (for matters involving staff and/or student staff) or the Vice President of Academic Affairs (for matters involving faculty) about a disclosed relationship.

These matters will be addressed outside of the Civil Rights Policy unless the report contains information which would support a violation of one or more sections of Prohibited Conduct detailed in Section VII.

X. Supportive Measures

Upon receipt of a report of Prohibited Conduct, MVNU may impose reasonable and appropriate supportive measures designed to restore or preserve a complainant's equal access to the University programs or activities without fee or charge, and without treating the respondent as responsible unless and until the completion of a Formal Track resolution that determines the respondent to be responsible for a policy violation. Supportive measures are designed to restore or preserve equal access to MVNU's education programs and activities without unreasonably burdening the other party. They include measures designed to protect the safety of all parties or the University's educational environment, and include measures to deter Prohibited Conduct.

Supportive measures are available to both the complainant and respondent regardless of whether the complainant chooses to file a formal complaint. The Civil Rights Director will maintain the privacy of any supportive measures provided to the extent possible and will promptly address any reported violation/s of the supportive measures.

The Civil Rights Director is responsible for coordinating the effective implementation of supportive measures. Any requests for or questions concerning supportive measures may be directed to the Civil Rights Director or designee.

A. Range of Supportive Measures

Potential supportive measures, implemented on behalf of the complainant and/or the respondent to the extent reasonably available and warranted by the circumstances, include, but are not limited to:

- Access to counseling and health services and assistance in setting up an initial appointment;
- Imposition of a mutual "no-contact order" (failing to abide by the no-contact order may result in allegations of additional policy violations);
- Altering housing or residence arrangements;
- Altering work arrangements or job assignment for employees;
- Providing campus escorts;
- Providing transportation accommodations;
- Offering adjustments to academic deadlines, course schedules, alternative course completion;
- Limiting an individual's or organization's access to certain MVNU facilities or activities pending resolution of the matter;
- Voluntary leave of absence;
- Increased security and monitoring of certain areas of the campus;
- Providing academic support services, such as tutoring;
- MVNU-imposed administrative leave or separation;
- MVNU-imposed restricted access; or
- Other remedies that can reasonably be tailored to the involved individuals to achieve the goals of this policy.

B. College-Imposed Restricted Access and Administrative Leave

Restricted Access is the removal of a respondent from the University's education program or activity on an emergency/temporary basis. Restricted Access is not disciplinary in nature and is not recorded on the respondent's transcript or permanent employee file. Restricted Access is evaluated on an individualized basis to determine the appropriate level of access to campus and participation in the University's programs and activities. Students placed on Restricted Access are often, but not always, permitted to continue to participate in classes and other academic obligations, and may or may not be able to remain in MVNU housing, eat in the dining hall, or be present on campus during unstructured periods of time.

The Civil Rights Director conducts an individualized safety and risk analysis to determine whether there exists an immediate threat to physical health or safety of any student or other individual arising from the allegations of Prohibited Conduct. If so, the Civil Rights Director may, in consultation with the appropriate University personnel, impose Restricted Access on student respondents. The Civil Rights Director will notify both parties in writing of the resulting restrictions and any changes to such restrictions.

All respondents are able to challenge Restricted Access. If a respondent wishes to challenge Restricted Access, the respondent shall provide written notice of such challenge, including their reasons, to the Civil Rights Director within 2 business days of receiving notice of the restriction. The Civil Rights Director, in conjunction with appropriate University personnel, shall meet with the respondent and an advisor of the respondent's choice. The purpose of the meeting is to permit the respondent to respond to the restriction. The location of the meeting will be determined by the Civil Rights Director and may occur via telephone or video-conference. Within 1 business day of the meeting, the Civil Rights Director and appropriate University personnel shall again consult regarding the Restricted Access and shall notify the respondent in writing of the outcome. Any changes to the restrictions shall be provided in writing to all parties.

The Civil Rights Director, in conjunction with other appropriate University personnel, may impose administrative leave on employee respondents if the facts and circumstances surrounding the reported conduct support such leave. Administrative leave is a separate process from Restricted Access and is not disciplinary in nature. Employees placed on administrative leave will receive written notice of the conditions of that leave, but will not be able to challenge the administrative leave.

XI. Complaint Resolution for Allegations of Sex Discrimination

All complaints of sex discrimination whether prohibited by Title VII, Title IX or University policy will be handled using the resolution process below. The Civil Rights Director will provide

the complainant and the respondent with a written overview of resolution options and available resources.

The University will conduct an initial assessment and determine the most appropriate manner of resolution under the policy. The University recognizes that in some circumstances, due to aspects of a particular case, strict compliance with the policy may create unexpected conflicts of interest or raise other concerns about the implementation of the process. The Civil Rights Director is empowered to adjust the process, with notice to the parties, as necessary to provide a prompt and equitable process.

Resolution of a formal complaint will typically continue when a complainant separates from MVNU. If a respondent withdraws, resigns, graduates, retires, or otherwise departs from the University after the filing of a formal complaint and prior to decision, the Civil Rights Director will determine whether to: (1) offer to the parties to seek/continue informal resolution; (2) discontinue the complaint process without a finding but with a respondent's student file marked "withdrew pending disciplinary action" or their employee file marked "no rehire"; (3) continue the formal complaint process to its conclusion; (4) take other action deemed appropriate by the Civil Rights Director.

A. Process Assurances: Complainant and Respondent

In any report, complaint, investigation or resolution under this policy, both a complainant and a respondent can expect:

1. a prompt and equitable response to reports of Prohibited Conduct;
2. to receive supportive measures that may be reasonably available and necessary for protection and support;
3. information about how to access confidential resources on and off campus and other forms of support available through MVNU and in the community;
4. written notice of the alleged conduct, potential policy violations at issue, and details about the process;
5. an adequate, reliable, thorough and impartial process conducted by individuals free from conflict of interest and bias;
6. a process that includes the presumption that the respondent is not responsible for a policy violation unless and until a determination regarding responsibility is made at the conclusion of the process;
7. the opportunity for an advisor of choice who may attend all meetings and proceedings related to the report and/or complaint;
8. timely notice of any meeting at which the party's presence is required, with sufficient time to prepare for the meeting;
9. agency and autonomy to decline to participate in an investigation or resolution under the policy, although MVNU may choose to continue the process even if the complainant and/or respondent does not participate;
10. to identify witnesses, submit suggested questions in writing during the investigation, and provide evidence during the investigation and resolution;

11. timely and equal access to any information that is used in the investigation and resolution;
12. prompt remedial action if Prohibited Conduct is determined to have occurred;
13. regular communication about the progress of the process and of the resolution;
14. timely written notice of the outcome, required remedies, and issued sanctions and rationale;
15. the opportunity to appeal the outcome (determination as to responsibility) and sanction;
16. to be free from retaliation;
17. reasonable accommodation for individuals with disabilities can be requested through established University protocol as provided by the Americans with Disabilities Act and/or Section 504 of the Rehabilitation Act; and,
18. to be free from MVNU-imposed orders restricting parties from discussing the case with others. This does not prohibit MVNU from issuing no-contact orders or requiring employees to abide by confidentiality laws.

B. Request for Anonymity or No Action

The Civil Rights Director will take all reasonable steps to respond, resolve, and remedy a report of Prohibited Conduct consistent with a complainant's preferences where possible. Where a complainant makes a report but requests that a name or other identifiable information not be shared with the respondent or that no formal action be taken, the University will balance this request with its responsibility to provide a safe and non-discriminatory environment for all MVNU community members.

In considering a complainant's request to take no action and evaluating whether to proceed, the Civil Rights Director will assess and consider:

- the preferences and concerns of the complainant;
- the nature and circumstances of the allegation;
- the severity and impact of the reported conduct;
- pattern evidence or other similar conduct by respondent;
- the respective ages of the parties, including whether the complainant is a minor (under the age of 18);
- whether the respondent has admitted to the conduct;
- whether the respondent has been the subject of other complaints or reports of Prohibited Conduct under this policy;
- whether the respondent threatened further sexual violence or other violence against the complainant or others;
- whether the report indicates that multiple respondents were involved;
- whether the report indicates that the conduct was perpetrated with a weapon;
- whether the respondent is an employee; and,
- whether the school possesses independent means to obtain relevant evidence (e.g., witnesses, security cameras or personnel, or physical evidence).

Where MVNU is unable to take action consistent with the request of the complainant, the Civil Rights Director will inform the complainant about the chosen course of action, and implement necessary supportive measures.

C. Initial Assessment

Upon receipt of a report, the Civil Rights Director will conduct an initial assessment to provide an integrated and coordinated response to reports under this policy. In the course of this initial assessment, the Civil Rights Director will consider the complainant's expressed preference regarding supportive measures and the manner of resolution, unless the Director determines that such a course of action would be unreasonable in light of the known circumstances.

As part of the initial assessment, the Civil Rights Director will:

- address immediate physical safety and emotional well-being;
- if applicable, notify the complainant of the right to contact law enforcement, to decline to contact law enforcement, and to seek medical treatment;
- if applicable, advise the complainant that even if they decline to contact law enforcement, the University may be required to report the incident to law enforcement under Ohio law (and under most circumstances, the complainant may decline to participate in a law enforcement investigation);
- inform the complainant of the importance of preservation of evidence (i.e., electronic, forensic, medical, physical, etc.)
- enter the incident into the University's daily crime log, if appropriate (without identifying information);
- evaluate whether to issue a timely warning consistent with the Clery Act;
- provide the complainant with information about on and off-campus resources;
- notify the complainant of the range of supportive measures;
- consider the complainant's interests with respect to supportive measures;
- provide the complainant with an explanation of the procedural options under the policy, including Informal Resolution and a Formal Track;
- notify the complainant of the ways they may choose to participate, or decline to participate, in the various steps of the process. This will include notification that the Civil Rights Director may, in certain circumstances, proceed without complainant's participation and that non-participation by the complainant may limit the ability of the University to respond;
- discuss the complainant's expressed preference for manner of resolution and any barriers to proceeding;
- explain the University's policy prohibiting retaliation; and,
- if the determination has been made to notify the respondent of the report, provide the respondent with information about resources, supportive measures, and procedural options.

No formal complaint filed by the complainant: If a complainant chooses not to file a formal complaint, the director will determine whether it is appropriate to take proactive steps to address the reported behavior. In this instance, the director will not typically disclose the specifics of any

report without the consent of the complainant. Alternatively, as below, the Civil Rights Director may elect to file a formal complaint.

Formal complaint filed: If a complainant decides to file a formal complaint, the Civil Rights Director will communicate with the respondent about the complaint, and discuss the above listed information with the respondent. When a formal complaint is initiated, the respondent and complainant will be informed of the nature of the alleged conduct and/or potential charges being investigated as detailed in Section XI.D.

** See the Grievance Procedures for complaints pertaining to Title VI and Title VII below in Section XII. The Grievance Procedures for ADA/504 are referred to in Section III of this policy.*

D. Filing a Formal Complaint for TIX or Non-Title IX Sexual Misconduct

A formal complaint of **Title IX** or **Non-Title IX Sexual Misconduct** is a document filed in writing by a complainant, or signed by the Civil Rights Director, that alleges Prohibited Conduct against a respondent and requests that the University officially investigate and resolve the allegation. The formal complaint may be filed with the Civil Rights Director in person, by mail, by electronic mail, by in-person delivery, or through the online reporting form and must contain the complainant's physical or digital signature. In the instances when the Civil Rights Director signs a formal complaint, the Civil Rights Director is not a complainant or a party during a resolution process, and must comply with requirements for any person involved in the response and/ or resolution to be free from conflicts and bias.

A formal complaint may be resolved through either an Informal Resolution Process or an Investigator Resolution Process for non-TIX or Hearing Resolution Process for TIX. Informal Resolution may only be offered after a formal complaint has been filed, so that the parties understand what the Formal Track entails and can decide whether to voluntarily attempt informal resolution as an alternative.

A formal complaint may be withdrawn if the complainant informs the Civil Rights Director in writing that they want to withdraw the complaint or the allegations. The Civil Rights Director may choose to withdraw a formal complaint if a respondent is no longer participating in or attempting to participate in the education or program activity of MVNU, the complainant submits a written request to withdraw the complaint, or specific circumstances prevent MVNU from gathering evidence sufficient to reach a determination. No matter the reason for the withdrawal of a complaint, the parties will be notified in writing of the decision, including the reasoning.

E. Advisor of Choice

Complainants and respondents may be accompanied to any meeting, Informal Resolution session, interview, and/or hearing related to the procedures outlined in this Policy by an advisor of their choice. The advisor of choice may be a friend, mentor, or any other supporter a party chooses to advise them who is both eligible and available. Individuals that may be called as potential witnesses may not serve as advisors.

If a formal complaint is filed, advisors are invited and strongly encouraged to speak with the Civil Rights Director for an orientation to the MVNU's policies and procedures, privacy protections, and expectations around participation and decorum. If a formal complaint is addressed through an Informal Resolution Process (Section XI.F.), the parties are encouraged but not required to have an advisor.

If a formal complaint is addressed through a Formal Track (Section XI.G.) and a live hearing is held, both the complainant and the respondent must have an advisor for the purpose of conducting cross-examination at the live hearing. If either party does not have an advisor for the live hearing phase of a Hearing Resolution Process, an advisor of the University's choosing will be assigned at no cost to the party. The advisor's participation is defined below:

Meetings with the Civil Rights Director: Advisors may accompany the complainant or the respondent to any meeting with the Civil Rights Director, and are encouraged to ask questions and speak openly and respectfully in those meetings. If a formal complaint is filed, advisors are invited and strongly encouraged to speak with the Civil Rights Director (or designee) for an orientation to MVNU's policies and procedures, privacy protections, and expectations around participation and decorum.

Informal Resolution Process: Advisors are not required to be present during any phase of the Informal Resolution process, but parties are strongly encouraged to include them. Advisors will be permitted to ask questions and advise the party with whom they are working.

Investigation: Advisors will receive access to the investigative report that contains the report narrative and all submitted evidence produced in the investigation, unless the party they are advising indicates in writing that the advisor should not be able to access the evidence. Advisors are not required to attend the investigation interview/s but they are permitted to attend. Advisors will be permitted to ask clarifying questions, as long as they are respectful and not disruptive. Advisors may not answer questions or provide information.

Pre-Hearing Conference: Advisors are required to attend a pre-hearing conference with the Hearing Coordinator and the Hearing Officer to review the University's live hearing procedures. Advisors are encouraged to ask questions to understand their role at the hearing and the University's expectations around participation and decorum.

Live Hearing: A live hearing is only required when at least one of the allegations being formally resolved includes one or more forms of Title IX - Sexual Harassment. At the live hearing, each party's advisor will be responsible for asking relevant questions to the other party or parties and any witnesses. Advisors are encouraged to focus questions on disputed issues so as to assist the Hearing Officer in determining issues of credibility. This questioning will be conducted orally, directly and in real-time in a manner that, in the Hearing Officer's sole discretion, is not inappropriate, harassing, intimidating, irrelevant, or redundant. The Hearing Officer reserves the right to remove an advisor who questions witnesses in an abusive, intimidating, harassing, or disrespectful manner. In the instance that an advisor is removed, the hearing will be suspended until a later date to permit an **alternative advisor to be obtained or assigned.**

F. Informal Resolution Process

The Informal Resolution Process may only be pursued after a formal complaint has been filed. Informal Resolution will only occur with the voluntary, and written consent of both parties and the Civil Rights Director. Informal Resolution is not permitted to resolve allegations that an employee (staff person or faculty member) engaged in Title IX - Sexual Harassment against a student.

Prior to initiating an informal resolution, the Civil Rights Director will issue each party a written notice disclosing:

- the allegations;
- the requirements and procedure of the informal resolution process; and
- any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

At any time either party has the right to withdraw from the Informal Resolution process and resolve the formal complaint through a Formal Resolution. If the parties are not able to resolve the complaint through the Informal Resolution process, the complaint will be resolved through a Formal Resolution unless the complaint is withdrawn or dismissed.

The Civil Rights Director retains the discretion to determine the type of Informal Resolution that may be appropriate in a specific case and may refer a complaint to a Formal Resolution at any time. Informal Resolutions will typically be completed within 30 calendar days of the decision to engage in Informal Resolution. If extenuating circumstances arise, all the parties will be informed of the time extension as necessary to provide a prompt resolution to the matter. Informal Resolution agreements are signed by the parties and the Civil Rights Director and are enforced by the University.

When the respondent is a student, an Informal Resolution will only be recorded in the respondent's student file in the Vice President of Student Life's office and/or on the student's transcript if the agreed-upon Resolution Agreement sanction includes disciplinary probation, suspension, or dismissal. When the respondent is an employee, a notation of the informal resolution will be made in the employee's file maintained by the Office of Human Resources and/or the Vice President of Academic Affairs Office.

Violations of an Informal Resolution Agreement will be reviewed by the Civil Rights Director and may be referred to a Formal Resolution or referred to the appropriate University official for further review and possible sanctioning.

G. Formal Track

The Formal Track may only be pursued after a formal complaint has been filed. The Civil Rights Director will identify the potential violations and prepare the initial notification of investigation outlining the charges to be investigated and assessed. At the completion of the investigation and any appeal of the Final Title IX assessment (if applicable), the complaint will be addressed

through either the Investigator Resolution Process (non-Title IX) or the Live Hearing Resolution Process (Title IX). Both parties will have the opportunity to appeal the decision regarding responsibility and any sanctions imposed. MVNU may delay granting a diploma otherwise earned until the completion of all phases of a Formal Resolution, including completion of an appeal and/or any sanctions imposed.

G.1. Investigation

The parties and their advisors will receive written notice that an investigation has been initiated. The notice of investigation will include:

- the identities of the parties involved;
- the specific section/s of the policy allegedly violated;
- the precise conduct alleged to constitute the potential violation/s;
- the approximate date, time, and location of the alleged incident;
- a statement indicating that the respondent is presumed not responsible for the alleged conduct;
- a statement that the determination of responsibility will be made at the conclusion of a Formal Resolution;
- a notice that parties have the right to an advisor of their choice;
- the result of an initial assessment to determine whether the allegations suggest a potential violation of "Sexual Harassment - Title IX," with an indication that this decision will be reviewed again when the investigators prepare their report;
- the name of the investigators and the ability to challenge their participation for conflict of interest or actual bias;
- the appropriate policy language prohibiting a party from knowingly making false statements or knowingly submitting false information; and
- notice that Retaliation is prohibited.

The notice shall be provided reasonably in advance of any interview with the investigators, with sufficient time for meaningful preparation. The Civil Rights Director, in consultation with the investigators, may amend the charges as part of the investigative process. The Civil Rights Director will, if appropriate, issue amended charges to both parties.

The Civil Rights Director will designate two investigators to conduct an adequate, reliable and impartial investigation, one of which will typically be a University employee. MVNU may engage an external investigator as one or both of the two assigned investigators. In complex situations, the Civil Rights Director may engage additional trained investigators to assist in gathering the information that will be considered by the primary investigators. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the University and not the parties.

The interviews will be recorded by the investigators.

The parties will have an equal opportunity to present witnesses, including expert witnesses, and to submit evidence. The investigators will also gather any available physical evidence, including

documents, communications between the parties, and other electronic records as appropriate and available. The parties may submit questions to be asked of parties and witnesses. Investigators will review submitted questions and, in their discretion, may choose which questions are necessary and appropriate to the investigation and conduct any follow-up, as they deem relevant. All parties and witnesses are expected to provide truthful information. Knowingly providing false or misleading information is a violation of the University policy and can subject a student or employee to disciplinary action. Making a good faith report to the University that is not later substantiated does not constitute false or misleading information.

The Civil Rights Director may combine multiple complaints that arise out of the same set of facts or circumstances into one investigation. Where multiple complainants or respondents are involved in the same investigation, the parties will only be provided with the appropriate portion(s) of the investigative documents that relate to the complaint(s) in which they are a party.

A person's medical, counseling/psychological, and similar treatment records are privileged and confidential documents that a party will not be required to disclose. Where a party provides their written permission to share medical, counseling/psychological, and similar treatment records as part of the investigation, only the portion of the records directly related to the allegations raised in the formal complaint will be included in the case file for review by the other party and for use in the investigative process.

Evidence related to the prior sexual history of the complainant is generally not relevant to the determination of a policy violation and will only be considered in very limited circumstances. For example, to prove that someone other than the respondent committed the alleged conduct, or where the existence of consent is at issue, the sexual history between the parties may be relevant to help understand the manner and nature of communications between the parties and the context of the relationship. However, even in the context of a relationship, consent to one sexual act does not, by itself, constitute consent to another sexual act, and consent on one occasion does not, by itself, constitute consent on a subsequent occasion.

G.2. Review of Evidence

The evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint will be made available to the parties and their advisors, including the evidence upon which the University may not rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence. The parties will have **10 calendar days** to review the evidence. The parties will be offered the opportunity to review the evidence and provide a written response that will be submitted to the investigators for the completion of the Investigation Report.

Due to the privacy of all those involved, evidence shared in an electronic format will not be printable, downloadable or electronically shareable by the parties or their advisors. Exceptions may be made in compliance with Section 504 of the Rehabilitation Act of 1973.

G.3. Investigation Report

Once the parties have reviewed the evidence and have submitted responses, or the time period to submit such responses has passed, the investigators will complete any follow up they deem necessary, and write the investigation report. In cases where Sexual Harassment is being alleged, the investigators will consider whether the conduct alleged in the formal complaint and the Notice of Investigation would constitute "Title IX - Sexual Harassment,". The investigators will consider the evidence gathered from the complainant during the investigation, and make a recommendation to the Civil Rights Director regarding the appropriate resolution process. The Civil Rights Director will review the recommendation of the investigators and make the final determination as to whether the conduct alleged, if demonstrated by a preponderance of the evidence, would constitute "Sexual Harassment – Title IX." This determination is made only considering the information provided by the complainant, regardless of other evidence available in the case. The Civil Rights Director will notify the parties, in writing, of the final assessment and whether or not the complaint will proceed to a hearing or be decided by the investigators.

The investigation report will include, but is not limited to, the following sections:

- overview of the complaint made and summary of the investigative methodology;
- summary of relevant information gathered, including:
- timeline of incident being investigated;
- complainant's account of events;
- respondent's account of events;
- witness accounts;
- evidence gathered;
- areas of agreement;
- areas of disagreement;
- assessment of whether or not the complaint meets one or more of the required elements of the definition of sexual harassment under Title IX, including rationale; and
- appendix containing all of the collected evidence.

The investigation report will not include:

- Information about the complainant's sexual predisposition or prior sexual behavior, unless:
- The information is to prove that someone other than the respondent committed the alleged conduct; or
- The information concerns specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent
- Information that is protected by a legally recognized privilege; and
- A party's medical, counseling/psychological, and similar treatment records unless the party has given voluntary, written consent.

When no appeal of the Final Title IX Assessment is filed, the parties have **10 calendar days** beginning at the conclusion of the **3-day appeal** window to submit their written response to the Investigation Report. The response may include an assertion that evidence not summarized in the report, but present in the case file, should be considered as relevant.

In a case where none of the charges include a form of Sexual Harassment, the parties have **10 calendar days** from the date the Civil Rights Director shares the Investigation Report to submit their written response to the Investigation Report.

In a case with multiple charges, if any of the charges constitute "Title IX - Sexual Harassment," all the charges in that case will be handled at the same time through the Hearing Resolution process.

G.4. Final Title IX Assessment and Appeal

Final Title IX Assessment

In cases involving allegations of Sexual Harassment, the investigators will consider the allegations in the formal complaint and Notice of Investigation to make a recommendation to the Civil Rights Director as to whether mandatory dismissal is appropriate. A mandatory dismissal is a determination that the information from the complainant, if true, does not constitute Title IX - Sexual Harassment. The recommendation is made based on the information obtained from the complainant, without regard to other evidence in the case.

The Civil Rights Director shall consider the recommendation of the investigators as to whether the case is subject to mandatory dismissal and shall make a determination as to whether mandatory dismissal is appropriate. The Director's decision, called the Final Title IX Assessment, will be shared with the parties and their advisors at the time the Investigative Report is shared. The Final Title IX Assessment may be appealed by either party. Instructions and grounds for the appeal will be shared by the Civil Rights Director with the Final Title IX Assessment.

Appeal of Final Title IX Assessment

Parties have **3 business days** after receipt of the investigative report to submit in writing an appeal of the Final Title IX Assessment. The appeal will be considered by an appropriately trained staff member designated by the Civil Rights Director. The appeal decision will be communicated in writing to the parties, their advisors, and the Civil Rights Director. The decision will also indicate the path for complaint resolution: Hearing Resolution or Investigator Resolution. From the date the appeal decision letter is shared with the parties, the parties have **10 calendar days** to submit a written response to the Investigation Report. The written response will be included for consideration by the Hearing Chair or the investigators in the resolution process.

G.5. Investigator Resolution Process (Non-Title IX- Sexual Misconduct)

Investigation

The Investigation Resolution Process will be used to resolve cases that do not include a charge of "Title IX - Sexual Harassment." The investigators will make a determination, by a preponderance of the evidence, whether there is sufficient information to support a finding of

responsibility. The investigators' finding, and the rationale for the finding, will be included in the final investigative report that will be shared with the parties by the Civil Rights Director.

The investigators should first evaluate the quality of the evidence. The investigators should consider all of the evidence regardless of who provided it. Any evidence the investigators find to be of high quality should be given more weight than any evidence the investigators find to be of low quality. Quality may, or may not be identical with quantity, and sheer quantity alone should not be the basis for a finding of responsibility. The testimony of a single party or witness may be sufficient to establish a fact.

The investigators will evaluate all admissible, relevant evidence for weight or credibility. Credibility is not based solely on observing demeanor, but also considers detail, interest or bias, corroboration where it would reasonably be expected to exist, the circumstances of the disclosure, and the nature of the relationship. The degree to which any inaccuracy, inconsistency, or implausibility in a narrative provided by a party or witness should affect a determination regarding responsibility is a matter to be decided by the investigators, after having the opportunity to ask questions of parties and witnesses, and to observe how parties and witnesses answer the questions posed by the other party. Corroborating evidence is not required.

The Investigators will not consider or rely on:

- Information about the complainant's sexual predisposition or prior sexual behavior, unless:
- The information is to prove that someone other than the respondent committed the alleged conduct; or
- The information concerns specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent
- Information that is protected by a legally recognized privilege; and
- A party's medical, counseling/psychological, and similar treatment records unless the party has given voluntary, written consent.

A party's answers to questions can and should be evaluated by the investigators in context, including taking into account that a party may experience stress while trying to answer questions, or other factors that may affect the party's ability to recall the specific details of an incident in sequence.

Determination

If the investigators determine by a preponderance of the evidence that there is insufficient information to find the respondent responsible for violating this or other policies, the complainant may appeal this outcome following the procedures set forth in Section XI.I.

If the investigators determine, by a preponderance of the evidence, that there is sufficient information to find the respondent responsible for violating this or other policies, the matter will be referred to an Adjudicator to determine the appropriate sanction. The Civil Rights Director

will notify the Registrar to place a hold on the respondent's transcript until the sanction has been issued by the Adjudicator.

Adjudication of Non-TIX-Sexual Misconduct

The Adjudicator is determined by the status of the respondent:

1. For reports against students or student groups, the Adjudicator is typically the Vice President of Student Life.
2. For reports against staff, the Adjudicator is typically the Vice President of Finance and Administration or, if the Vice President of Finance and Administration is unable to serve, the Vice President of Student Life.
3. For reports against faculty, the Adjudicator is typically the Vice President of Academic Affairs or, if the Vice President of Academic Affairs is unable to serve, the Vice President of Finance and Administration.

When the typical or alternate Adjudicator is unable to serve, or is not otherwise designated in this policy, the Civil Rights Director will select a trained individual to be the Adjudicator with notice to the parties.

The Adjudicator must be a neutral and impartial decision-maker. The parties will be informed, in writing, of the specific Adjudicator assigned to determine sanction. Within **2 calendar days** of receiving the notice of the designated Adjudicator, a party may submit a written request to the Civil Rights Director to replace the named Adjudicator, if there are reasonable articulable grounds to establish bias, conflict of interest or an inability to be fair and impartial. The designated Adjudicator will only be replaced if the Civil Rights Director determines that their bias precludes impartiality or constitutes conflict. Additionally, an Adjudicator who has reason to believe they cannot make an objective determination must recuse themself from the process.

For a range of possible sanctions and factors considered by the Adjudicator see Section XI.H.

Timeframe for Resolution of Non-Title IX-Sexual Misconduct

The University will seek to complete the adjudication (imposition of sanction) within **10 calendar days** of the notice of referral to adjudication, but this time frame may be extended for good cause with written notice to the parties of the delay and the reason for the delay.

Notice of Outcome of Non-Title IX-Sexual Misconduct

The Adjudicator's written determination of the outcome, the sanction and the rationale for each will be provided to each party and their advisor. The parties will be informed of any sanctions, the date by which the requirements must be satisfied (if applicable), and the consequences of failure to satisfy the requirements.

The outcome letter will also provide each party with their appeal options. If there are any changes to the outcome, both parties will be simultaneously notified.

G.6. Hearing Resolution Process (Title IX - Sexual Harassment)

A Hearing Resolution will be used to resolve cases that, after the Final Title IX Assessment, include charges of "Title IX - Sexual Harassment." If such cases also include other charges, all the charges in that case will be handled at the same time through the Hearing Resolution process. A Hearing Resolution includes a pre-hearing conference, a live hearing, decisions about responsibility and sanctioning by the Hearing Chair, and an optional appeal process.

A single Hearing Chair will conduct the live hearing. The Civil Rights Director will choose a trained, impartial Hearing Chair. The Hearing Chair cannot be the individual assigned in the role of the Civil Rights Director for the case, nor can they have acted in the role of an investigator or served in any other function that would pose a potential conflict of interest.

Pre-Hearing Conference

Each party will have their own pre-hearing conference. The Civil Rights Director will communicate to the parties, their advisors, and the Hearing Chair the date, time, and format for their Pre-Hearing Conference. The Civil Rights Director, the Hearing Chair, and the advisor must be in attendance. While the parties are strongly encouraged to attend, they are not required to do so.

During the Pre-Hearing Conference, the advisors must share with the Hearing Chair their list of witnesses they wish to question at the hearing, the identity of any requested witnesses that were not questioned during the investigation, the request for any new evidence to be considered that was not submitted previously to the investigators, and the availability of the advisor and the party for hearing dates.

Evidence and witnesses may only be presented at the hearing if they were submitted to the investigators and made available to the parties for review, unless they were unavailable at the time of the investigation or the relevance was unknown until the investigative report was submitted. The Hearing Chair will address any requests to present new evidence and new witnesses at the Pre-Hearing Conference.

The advisor is strongly encouraged to discuss lines of questioning with the Hearing Chair at the Pre-Hearing Conference to obtain guidance from the Hearing Chair on relevancy prior to the hearing. The Hearing Chair will discuss the expectations and guidelines for appropriate behavior and decorum during the hearing.

After reviewing each party's witness list, the Hearing Chair may, at their discretion, add names of other witnesses contained in the report for the purpose of appearing at the hearing and submitting to cross-examination.

After the conclusion of the Pre-Hearing Conferences, the Civil Rights Director will provide each party and their advisor with written notice of the date, time, and manner for the hearing, which will typically occur no less than **5 business days** after the conclusion of the final pre-hearing conference.

Witness Agreement to Participate

Prior to the hearing, the Director will contact each witness who spoke with the investigators during the investigation to request whether each witness would be willing to provide testimony at the live hearing if they are requested to do so. Information about whether the witnesses are willing to participate will be provided to the parties, their advisors, and the Hearing Chair prior to the hearing.

In making determinations regarding "Title IX - Sexual Harassment," the following rules apply:

- If a party or witness does not submit to cross-examination at the live hearing, the Hearing Chair will weigh any relevant statements of the party or witness appropriately in reaching a determination of responsibility.
- Statements must be considered in the context of the other evidence in the record.
- The Decision-Maker will provide a written determination of assessment of appropriate weight given to statements not subject to cross examination based on standards for weighing credibility found within this policy.

Live Hearing

The live hearing may be conducted with all parties physically present in the same geographic location or, at the University's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually. Regardless of format, the hearing will be recorded. The recording will be the property of Mount Vernon Nazarene University and will be made available to the parties for review and inspection upon their request during the pendency of the process.

Those persons present during the entirety or at designated portions of the hearing include: complainant, complainant's advisor; respondent, respondent's advisor; Hearing Chair; Civil Rights Director; witnesses; other appropriate individuals at the discretion of the Civil Rights Director (for example, an interpreter).

The Hearing Chair will provide an introduction detailing the purpose of the hearing, have those present identify themselves and their role, remind all parties of the expectation to be candid and honest in their response, and provide a brief overview of the procedure and the anticipated order of the hearing.

The advisors will be responsible for orally asking relevant questions, including those questions which challenge credibility, to the other party or parties and any witnesses directly, in real-time and in a manner that, in the Hearing Chair's sole discretion, is not inappropriate, harassing, intimidating, irrelevant, or redundant. Cross-examination will never be conducted by a party personally. Only relevant questions may be asked of a party or witness. Relevant questions are those tending to prove or disprove a fact at issue. Questions that are not relevant include:

- Repetition of the same question;
- Questions related to information about the complainant's sexual predisposition or prior sexual behavior, unless:

- The information is to prove that someone other than the respondent committed the alleged conduct; or
- The information concerns specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent
- Questions related to information that is protected by a legally recognized privilege; and
- Questions related to a party's medical, counseling/psychological, and similar treatment records unless the party has given voluntary, written consent.

The Hearing Chair will objectively evaluate all evidence to determine its relevance, materiality, weight and reliability.

Before a complainant, respondent, or witness answers a question by an advisor, the Hearing Chair will first determine whether the question is relevant and briefly explain any decision to exclude a question as not relevant, or request rephrasing of the question. The Hearing Chair is not required to give a lengthy or complicated explanation of a relevancy determination during the hearing. The Hearing Chair may later send to the parties any revisions to the explanation of relevance that was provided during the hearing.

Decision/Finding/Sanctions

Decisions regarding responsibility will be made by the Hearing Chair and communicated to the parties and their advisors in writing within **15 business days** from the conclusion of the live hearing.

The Hearing Chair should first evaluate the quality of the evidence. The Hearing Chair should consider all of the evidence regardless of who provided it. Any evidence the Hearing Chair finds to be of high quality should be given more weight than any evidence the Hearing Chair finds to be of low quality. Quality may, or may not be identical with quantity, and sheer quantity alone should not be the basis for a finding of responsibility. The testimony of a single party or witness may be sufficient to establish a fact.

The Hearing Chair will evaluate all admissible, relevant evidence for weight or credibility. Credibility is not based solely on observing demeanor, but also considers detail, interest or bias, corroboration where it would reasonably be expected to exist, the circumstances of the disclosure, and the nature of the relationship. The degree to which any inaccuracy, inconsistency, or implausibility in a narrative provided by a party or witness should affect a determination regarding responsibility is a matter to be decided by the Hearing Chair after having the opportunity to ask questions of parties and witnesses, and to observe how parties and witnesses answer the questions posed by the other party. Corroborating evidence is not required.

The Hearing Chair will not consider or rely on:

- Information about the complainant's sexual predisposition or prior sexual behavior, unless:
- The information is to prove that someone other than the respondent committed the alleged conduct; or

- The information concerns specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent
- Information that is protected by a legally recognized privilege; and
- A party's medical, counseling/psychological, and similar treatment records unless the party has given voluntary, written consent.

A party's answers to questions can and should be evaluated by the Hearing Chair in context, including taking into account that a party may experience stress while trying to answer questions, or other factors that may affect the party's ability to recall the specific details of an incident in sequence.

The Hearing Chair will also determine the sanctions. In determining the sanctions, the Hearing Chair will consult with the appropriate University staff member, who will review the draft written decision. For reports against students or student groups, the Vice President for Student Life; for reports against staff, the Vice President for Finance and Administration; for reports against faculty, the Vice President for Academic Affairs. For a range of possible sanctions see Section XI.H.

The written decision will include the following:

- identification of the allegations potentially constituting policy violations;
- a description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications ot the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- summary of statements made at the hearing,
- findings of fact supporting the determination;
- conclusions regarding the application of the Policy to the facts;
- a statement and rationale as to the finding for each allegation, including a determination regarding responsibility;
- any disciplinary sanctions imposed on the respondent;
- whether additional remedies will be provided to the complainant designed to restore or preserve the complainant's equal access to the University's educational programs or activities; and
- the opportunity for appeal.

The written decision will be provided to the parties simultaneously.

When remedies are provided, they will be determined and monitored by the Civil Rights Director throughout the Complainant's enrollment, employment, and/or engagement with the University. Availability of a particular remedy may depend on the University's current relationships with the Complainant or Respondent.

H. Possible Sanctions

In determining the sanctions, the following factors will be considered, to the extent the information is available in the case file: (1) the respondent's prior conduct history; (2) how MVNU has sanctioned similar incidents in the past; (3) the nature and violence of the conduct at issue; (4) the impact of the conduct on the complainant; (5) the impact of the conduct on the community, its members, or its property; (6) whether the respondent has accepted responsibility for their actions; (7) any other mitigating or aggravating circumstances, including MVNU's beliefs and values.

The imposition of sanctions will typically take effect immediately, but may be stayed at the discretion of the Hearing Chair in consultation with the Civil Rights Director. A respondent who separates from MVNU under any circumstance is not eligible for re-admittance or re-employment until they have successfully completed the terms of any sanctions imposed.

Suspensions and Dismissals are recorded on a student's permanent academic record as "Suspended: date" or "Dismissed: date" and will be noted on the transcript at the time the sanction is imposed. If an appeal reverses the decision, the notation will be removed. If the student is the subject of an investigation, but voluntarily withdraws from MVNU before completion of the process, "Date of withdrawal: Institutional Action Pending" will appear on the student's transcript. Upon conclusion of the investigation and appeal process, the notation of withdrawal will be removed. When Suspension or Dismissal is issued, this action will be noted on the student's transcript in place of the notice of withdrawal pending.

Sanctions for Students and Student Groups

For students, the sanction may include removal from specific courses or activities, removal from MVNU housing, suspension from MVNU, or dismissal. While sanctions may be of a punitive nature, they are intended to be educational as well. The possible sanctions that may be issued, individually or in combination, for students found responsible for Prohibited Conduct include:

- **Statement of Concern.** May be issued to students who are found in the presence of a policy violation, but who are not held formally accountable for that violation.
- **Warning.** A warning is notification that a student has committed certain violations and that continuance of such conduct will result in more severe disciplinary action.
- **Educational Sanctions.** These include but are not limited to alcohol education, mandatory counseling assessment and adherence to professional counseling recommendations, research paper or project, coordinating a hall or building program with a residential life staff member, group education program, etc.
- **Behavioral Contract.** The purpose of such a contract is to allow a student to successfully manage their behavior while remaining an active member of the MVNU community. Failure to complete the agreed-upon provisions of the contract will result in suspension from the University, unless the student voluntarily withdraws. If suspended or withdrawn, the student must follow the readmission process outlined in the University Catalog before they may resume their studies at MVNU

- **Administrative Hold on Student Accounts.** Enforced most often when students have failed to comply with assigned tasks from a conduct hearing or Title IX investigation. This action precludes students from registering for classes and obtaining such documents as transcripts and diplomas. Once the outstanding sanction has been satisfactorily completed, the hold will be lifted.
- **Disciplinary Service.** Service hours expected to be completed in a given area as a way to give back to the campus or local community.
- **Fine/Restitution.** A fine or restitution is a monetary penalty for violations such as vandalism or damage to MVNU property or the property of others. All fines must be paid by personal or cashier's check; they will not be applied to a student's account.
- **MVNU Restriction.** This may include restrictions from certain buildings, events, programs, or activities, as well as restrictions on communicating with the complainant. The Civil Rights Director shall be responsible for managing implementation of any imposed restriction.
- **MVNU Housing Restriction.** Residence re-assignment, removal from MVNU housing, or restrictions on where a student may live. The Civil Rights Director shall be responsible for managing implementation of any imposed restriction.
- **Disciplinary Probation.** This sanction means that for a specified period of time (ordinarily no less than the equivalent of one semester) a student is not in good disciplinary standing with MVNU.
- **Administrative Withdrawal.** Withdrawal from a specific course, major, or academic department may be invoked in cases where a student or group of students violates expectations of the academic arena (classroom incivility, disruption, harassment of faculty or other students in the classroom).
- **Deferred Suspension.** This involves students who have been held responsible for behavior that warrants suspension but where mitigating circumstances and additional sanctions may allow a student to remain in the community while these sanctions are being completed. Failure to complete any of the additional expectations by the stated deadlines will lead to the immediate implementation of suspension without further hearing. In addition, if a student is found responsible for any further MVNU policy violations, at a minimum, the student will automatically be recommended for suspension for at least one full semester.
- **Suspension.** The denial of the opportunity to continue in the University for a specified period of time (ordinarily no less than one semester), or indefinitely until the student's intervening record can support an application for readmission. While suspended, a student is not allowed to be on campus or to attend any official University event. In the event that additional sanctions are imposed in conjunction with the suspension, these sanctions will most likely be expected to be completed prior to an application for readmission to be considered. Upon return from suspension, the student will be placed on probationary status for one calendar year following completion of suspension. This sanction is noted permanently on the student's transcript.

For a student employee who is acting within the scope of their employment at the time of the incident, the sanction may include any permissible sanction for students or employees.

Sanctions for Employees or Employee Groups

For employees, the sanction may include any form of responsive action or progressive discipline as set forth in the Faculty or Staff Handbooks, including training, referral to counseling and/or disciplinary action such as warning, reprimand, withholding of a promotion or pay increase, reassignment, temporary suspension without pay or termination of employment.

Sanctions for Faculty or Faculty Groups

Appropriate sanctions may range from a warning, a reprimand, relevant training, referral to counseling, salary freeze, removal from certain responsibilities (e.g. supervising employees), paid leave or unpaid leave, non-renewal of contract, reassignment, termination of tenure and/or termination of employment.

Sanctions for Non-students and Non-employees

Appropriate sanctions may include but are not limited to: warning, counseling, training, restricted campus access, restricted participation in the University's activities and events.

I. Appeal of Finding and/or Sanction

Regardless of whether a complaint is resolved through the Investigator Resolution or the Hearing Resolution, both the complainant and respondent may appeal the outcome, including a finding of responsibility (or no responsibility) and/or the sanction. In a request for an appeal, the burden of proof lies with the party requesting the appeal. Dissatisfaction with the outcome of the investigation is not grounds for appeal. The limited grounds for appeal are as follows:

- procedural irregularity that affected the outcome of the matter;
- new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- the Civil Rights Director investigator(s), or Hearing Chair had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter; or
- the decision of the investigators under Section XI.G.5., the Hearing Chair under Section XI.G.6., or the adjudicator under Section XI.G.5. was clearly erroneous based on the evidential record.

The Appeal Officer for all cases, regardless of the respondent's classification, is the Vice President for Graduate Professional Studies. In the instance when the Vice President for Graduate Professional Studies is unable to serve, the alternate Appeal Officer is determined by the classification of the respondent:

1. For students, the alternate Appeals Officer will be the Vice President of Academic Affairs.
2. For faculty, the alternate Appeals Officer will be the Vice President of Finance and Administration.

3. For staff, the alternate Appeals Officer will be the Vice President of Academic Affairs.

When the typical or alternate Appeal Officer is unable to serve, or is not otherwise designated in this policy, the Civil Rights Director will select a trained individual to be the Appeal Officer with notice to the parties.

The Appeal Officer must be a neutral and impartial decision maker. The parties will be informed, in writing, of the specific Appeals Officer. Within 1 calendar day of receiving the notice of the designated Appeals Officer, the complainant and the respondent may submit a written request to the Civil Rights Director to replace the named Appeals Officer if there are reasonable articulable grounds to establish bias, conflict of interest or an inability to be fair and impartial. The designated Appeals Officer will only be replaced if the Civil Rights Director determines their bias precludes impartiality or constitutes conflict. Additionally, an Appeals Officer who has reason to believe they cannot make an objective determination must recuse themselves from the process.

A party who chooses to appeal must submit a written appeal to the Civil Rights Director within **5 business days** of receipt of the decision. The written appeal must include the specific basis for the appeal and any information or argument in support of the appeal. Upon receipt of the appeal, the Civil Rights Director will provide the other party notice of the appeal and the opportunity to respond in writing to the appeal. Any response to the appeal must be submitted to the Civil Rights Director within **3 business days** from the other party's receipt of the appeal. Appeal responses are shared with the other parties but no reply is permitted.

The Appeals Officer will make a decision regarding the written appeal and, within **10 business days** of receipt of all appeal documents, notify the complainant and the respondent of the outcome. The Appeal Officer may affirm the finding(s); alter the finding(s); alter the sanctions; or request that additional steps be taken.

Appeal decisions are final. All appeal deadlines may be extended for good cause by the Civil Rights Director. Any extension will be communicated to the parties.

XII. Complaint Resolution for Title VI and Title VII - Discrimination of a Protected Characteristic

Upon receipt of a written complaint, the Civil Rights Director will make a determination as to whether the University has jurisdiction over the matter and send the complainant an acknowledgment letter informing her/him whether the complaint will be investigated. **Note:** The Civil Rights coordinator may elect in the appropriate case to process Title VII grievances alleging sex discrimination under the University's Title IX policy. Complaints will be resolved through either **Informal Resolution Process** or the **Investigator Resolution Process**. The Civil Rights Director will provide the complainant and the respondent with a written overview of resolution options and available resources.

A. Process Assurances: Complainant and Respondent

In any report, complaint, investigation or resolution under this policy, both a complainant and a respondent can expect:

- a prompt and equitable response to reports of Prohibited Conduct;
- to receive supportive measures that may be reasonably available and necessary for protection and support;
- information about how to access confidential resources on and off campus and other forms of support available through MVNU and in the community;
- written notice of the alleged conduct, potential policy violations at issue, and details about the process;
- an adequate, reliable, thorough and impartial process conducted by individuals free from conflict of interest and bias;
- a process that includes the presumption that the respondent is not responsible for a policy violation unless and until a determination regarding responsibility is made at the conclusion of the process;
- the opportunity for an advisor of choice who may attend all meetings and proceedings related to the report and/or complaint;
- timely notice of any meeting at which the party's presence is required, with sufficient time to prepare for the meeting;
- agency and autonomy to decline to participate in an investigation or resolution under the policy, although MVNU may choose to continue the process even if the complainant and/or respondent does not participate;
- to identify witnesses, submit suggested questions in writing during the investigation, and provide evidence during the investigation and resolution;
- timely and equal access to any information that is used in the investigation and resolution;
- prompt remedial action if Prohibited Conduct is determined to have occurred;
- regular communication about the progress of the process and of the resolution;
- timely written notice of the outcome, required remedies, and issued sanctions and rationale;
- the opportunity to appeal the outcome (determination as to responsibility) and sanction;
- to be free from retaliation;
- reasonable accommodation for individuals with disabilities can be requested through established University protocol as provided by the Americans with Disabilities Act and/or Section 504 of the Rehabilitation Act; and,
- to be free from MVNU-imposed orders restricting parties from discussing the case with others. This does not prohibit MVNU from issuing no-contact orders or requiring employees to abide by confidentiality laws.

B. Initial Assessment

If the Civil Rights Director finds jurisdiction, she or he will notify the subject of the complaint (the "respondent") and request a response to the complaint. The University

will conduct an initial assessment and determine the most appropriate manner of resolution under the policy. The University recognizes that in some circumstances, due to aspects of a particular case, strict compliance with the policy may create unexpected conflicts of interest or raise other concerns about the implementation of the process. The Civil Rights Director is empowered to adjust the process, with notice to the parties, as necessary to provide a prompt and equitable process.

C. Informal Resolution Process

Upon receiving a response from the respondent, the Civil Rights Coordinator may attempt to conciliate and resolve the complaint through a mutually-agreeable Informal Resolution. Any such informal resolution must be signed by both the complainant and an authorized representative of the University.

Prior to initiating an informal resolution, the Civil Rights Director will issue each party a written notice disclosing:

- the allegations;
- the requirements and procedure of the informal resolution process; and
- any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

At any time either party has the right to withdraw from the Informal Resolution process and resolve the formal complaint through the Investigator Resolution Process.

The Civil Rights Director retains the discretion to determine the type of Informal Resolution that may be appropriate in a specific case and may refer a complaint to the Investigator Resolution at any time. Informal Resolutions will typically be completed within 30 calendar days of the decision to engage in Informal Resolution. If extenuating circumstances arise, all the parties will be informed of the time extension as necessary to provide a prompt resolution to the matter. Informal Resolution agreements are signed by the parties and the Civil Rights Director and are enforced by the University.

Violations of an Informal Resolution Agreement will be reviewed by the Civil Rights Director and may referred to the appropriate University official for further review and possible sanctioning.

The mutually agreed upon resolution by the parties is a final decision, i.e., it is not appealable.

D. Investigator Resolution Process

Investigation

If an informal resolution is not appropriate or cannot be achieved, the Civil Rights Director will promptly begin an investigation of the complaint. The parties will receive written notice that an investigation has been initiated.

The investigation may include interviews of the complainant, the respondent, University employees and students, and anyone else who may have relevant information, as well as review of any physical or written evidence. The parties will have an equal opportunity to present witnesses and to submit evidence. The investigators will also gather any available physical evidence, including documents, communications between the parties, and other electronic records as appropriate and available.

All parties and witnesses are expected to provide truthful information. Knowingly providing false or misleading information is a violation of the University policy and can subject a student or employee to disciplinary action. Making a good faith report to the University that is not later substantiated does not constitute false or misleading information.

The notice shall be provided reasonably in advance of any interview with the investigators, with sufficient time for meaningful preparation. The Civil Rights Director, in consultation with the investigators, may amend the charges as part of the investigative process. The Civil Rights Director will, if appropriate, issue amended charges to both parties.

The Civil Rights Director will designate two investigators to conduct an adequate, reliable and impartial investigation.

The Civil Rights Director may combine multiple complaints that arise out of the same set of facts or circumstances into one investigation. Where multiple complainants or respondents are involved in the same investigation, the parties will only be provided with the appropriate portion(s) of the investigative documents that relate to the complaint(s) in which they are a party.

Determination

The investigators will make a determination, by a preponderance of the evidence, whether there is sufficient information to support a finding of responsibility. The investigators' finding, and the rationale for the finding, will be included in the final investigative report that will be shared with the parties by the Civil Rights Director.

The investigators should first evaluate the quality of the evidence. The investigators should consider all of the evidence regardless of who provided it. Any evidence the investigators find to be of high quality should be given more weight than any evidence the investigators find to be of low quality. Quality may, or may not be identical with quantity, and sheer quantity alone should not be the basis for a finding of responsibility. The testimony of a single party or witness may be sufficient to establish a fact.

The investigators will evaluate all admissible, relevant evidence for weight or credibility.

Absent extenuating circumstances, the Civil Rights Director will conclude the investigation within 30 business days and issue a letter of determination to complainant, respondent, and a decision maker for the relevant University business unit. The letter of determination will include a determination of whether the allegations in the complaint were substantiated and any recommended remedial action.

If the investigation determined by a preponderance of the evidence that there is insufficient information to find the respondent responsible for violating this or other policies, the complainant may appeal this outcome following the procedures set forth in Section XI.I.

If the investigation determined, by a preponderance of the evidence, that there is sufficient information to find the respondent responsible for violating this or other policies, the matter will be referred to an Adjudicator to determine the appropriate sanction in collaboration with the Civil Rights Director.

Adjudication

The Adjudicator is determined by the status of the respondent:

1. For reports against students or student groups, the Adjudicator is typically the Vice President of Student Life.
2. For reports against staff, the Adjudicator is typically the Vice President of Finance and Administration or, if the Vice President of Finance and Administration is unable to serve, the Vice President of Student Life.
3. For reports against faculty, the Adjudicator is typically the Vice President of Academic Affairs or, if the Vice President of Academic Affairs is unable to serve, the Vice President of Finance and Administration.

When the typical or alternate Adjudicator is unable to serve, or is not otherwise designated in this policy, the Civil Rights Director will select a trained individual to be the Adjudicator with notice to the parties.

The Adjudicator must be a neutral and impartial decision-maker. The parties will be informed, in writing, of the specific Adjudicator assigned to determine sanction. Within **2 calendar days** of receiving the notice of the designated Adjudicator, a party may submit a written request to the Civil Rights Director to replace the named Adjudicator, if there are reasonable articulable grounds to establish bias, conflict of interest or an inability to be fair and impartial. The designated Adjudicator will only be replaced if the Civil Rights Director determines that their bias precludes impartiality or constitutes conflict. Additionally, an Adjudicator who has reason to believe they cannot make an objective determination must recuse themself from the process.

For a range of possible sanctions and factors considered by the Adjudicator see Section XI.H.

The University will seek to complete the adjudication (imposition of sanction) within **10 calendar days** of the notice of referral to adjudication, but this time frame may be extended for good cause with written notice to the parties of the delay and the reason for the delay.

The Adjudicator's written determination of the outcome, the sanction and the rationale for each will be provided to each party. The parties will be informed of any sanctions, the date by which the requirements must be satisfied (if applicable), and the consequences of failure to satisfy the requirements.

Nothing in this grievance procedure should be interpreted as preventing an aggrieved individual from pursuing other remedies available to them, including filing a complaint with a government agency with jurisdiction.

Appeal of Finding and/or Sanction

When a complaint is resolved through the Investigator Resolution the complainant and respondent may appeal the outcome, including a finding of responsibility (or no responsibility) and/or the sanction. In a request for an appeal, the burden of proof lies with the party requesting the appeal. Dissatisfaction with the outcome of the investigation is not grounds for appeal. The limited grounds for appeal are as follows:

- procedural irregularity that affected the outcome of the matter;
- new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- the Civil Rights Director investigator(s), or adjudicator had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter; or
- the decision of the investigators was clearly erroneous based on the evidential record.

The Appeal Officer for all cases, regardless of the respondent's classification, is the Vice President for Graduate Professional Studies. In the instance when the Vice President for Graduate Professional Studies is unable to serve, the alternate Appeal Officer is determined by the classification of the respondent:

4. For students, the alternate Appeals Officer will be the Vice President of Academic Affairs.
5. For faculty, the alternate Appeals Officer will be the Vice President of Finance and Administration.
6. For staff, the alternate Appeals Officer will be the Vice President of Academic Affairs.

The Appeal Officer must be a neutral and impartial decision maker. The parties will be informed, in writing, of the specific Appeals Officer. Within 1 calendar day of receiving the notice of the designated Appeals Officer, the complainant and the respondent may submit a written request to the Civil Rights Director to replace the named Appeals Officer if there are reasonable articulable grounds to establish bias, conflict of interest or an inability to be fair and impartial. The designated Appeals Officer will only be replaced if the Civil Rights Director determines their bias precludes impartiality or constitutes conflict. Additionally, an Appeals Officer who has reason to believe they cannot make an objective determination must recuse themselves from the process.

A party who chooses to appeal must submit a written appeal to the Civil Rights Director within **5 business days** of receipt of the decision. The written appeal must include the specific basis for the appeal and any information or argument in support of the appeal. Upon receipt of the appeal, the Civil Rights Director will provide the other party notice of the appeal and the opportunity to respond in writing to the appeal. Any response to the appeal must be submitted to the Civil

Rights Director within **3 business days** from the other party's receipt of the appeal. Appeal responses are shared with the other parties but no reply is permitted.

The Appeals Officer will make a decision regarding the written appeal and, within **10 business days** of receipt of all appeal documents, notify the complainant and the respondent of the outcome. The Appeal Officer may affirm the finding(s); alter the finding(s); alter the sanctions; or request that additional steps be taken.

Appeal decisions are final. All appeal deadlines may be extended for good cause by the Civil Rights Director. Any extension will be communicated to the parties.

XIII. Records

As required under Title IX regulations, the University maintains records of all reports, complaints, supportive measures, investigations, evidence, informal resolutions, investigator decisions, hearings, hearing records, hearing outcomes, sanctions, remedies, and appeals governed by this policy. Such records will be maintained by the Civil Rights Director for a period of at least 7 years after the last party graduates, leaves employment of the University, or otherwise is no longer engaged in a MVNU program or activity. Records are accessible only to the extent permissible under applicable records confidentiality and disclosure laws, including FERPA, 20 U.S.C. 1232g, and the Clery Act, 20 U.S.C. 1092(f). At the conclusion of the process, consistent with confidentiality requirements, access to all initial and final investigative documents and reports will be restricted once the appeals process has been completed.

The University also maintains all materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process for a period of at least nine years. These materials are available on the MVNU's website, as required under Title IX regulations.

XIV. Education and Prevention Programs

Mount Vernon Nazarene University recognizes that the most effective way to achieve a community free of Prohibited Conduct is to equip all community members with the skills to recognize and prevent these prohibited forms of conduct.

Throughout the year MVNU offers educational programs to promote awareness of Prohibited Conduct. Prevention programs include an overview of the University's policies and procedures, relevant definitions, including Prohibited Conduct, consent, discussion of the impact of alcohol and illegal drug use, safe and positive options for bystander intervention, and information about risk reduction. Incoming first-year students and new employees will receive primary prevention and awareness programming as part of their orientation.

MVNU offers regular primary prevention programs and ongoing education and awareness programs for all students and employees. Employees who play a key role in implementing the policy, including those faculty and staff who are likely to receive reports of Prohibited Conduct will receive regular in-depth training to assist with a timely, sensitive, respectful, and effective institutional response. The University is committed to ensuring that all employees understand how to respond to these reports of this nature.

XV. Policy Maintenance

The University will review the Mount Vernon Nazarene University's Civil Rights Policy on Discrimination Harassment, Sexual Misconduct annually. Non-procedural changes will be made by the MVNU Civil Rights Office. Major procedural changes will be presented to the Senior Leadership Team for review and comment and will be implemented in accordance with MVNU governance policies.

XVI. Compliance

Title IX Compliance

Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex, including sexual and gender-based harassment and violence, sexual assault, dating violence, domestic violence and stalking in any federally funded education program or activity. The College will not tolerate such conduct. The University's Civil Rights Office manages the resolution of all conduct prohibited by this policy. To make a report or discuss any aspect of this policy, please contact Civil Rights Director Christina Jones 740-399-6868 EXT 3713 or www.mvnu.edu/titleix.

Clery Act Compliance

The Clery Act, as amended by the Violence Against Women Reauthorization Act of 2013 (VAWA), imposes certain requirements on the College's response to Sexual Assault, Dating Violence, Domestic Violence, and Stalking. Post-secondary institutions who receive federal funding are required to report crime statistics in their daily crime log, Annual Security Report, and to the U.S. Department of Education. Key response and procedural protections under the Clery Act include issuing a timely warning when there is a serious or ongoing threat, instituting protective measures (referred to as supportive measures below), using trained and impartial investigators and decision-makers, reaffirming the right of individuals to decide whether to report or seek assistance from law enforcement and/or campus authorities, allowing individuals to be accompanied by an advisor of their choice during the process, allowing timely and equal

access to any information used in a disciplinary proceeding, and providing written notice of the outcome and rationale.

Title VI Compliance

Title VI, 42 U.S.C. § 2000d et seq., was enacted as part of the landmark Civil Rights Act of 1964. It prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.

MVNU is committed to fostering a non-discriminatory campus environment in which community members can learn and work. MVNU prohibits discrimination on the basis of race, gender, age, color, national origin, disability, marital status, or military service in the operation of all University programs, activities, and services.

Inquiries regarding MVNU's non-discrimination policies should be directed to the Civil Rights Director at 740-399-6868 EXT 3713 or www.mvnu.edu/titleix, or MVNU, Lakeholm 109, Mount Vernon, OH 43050.

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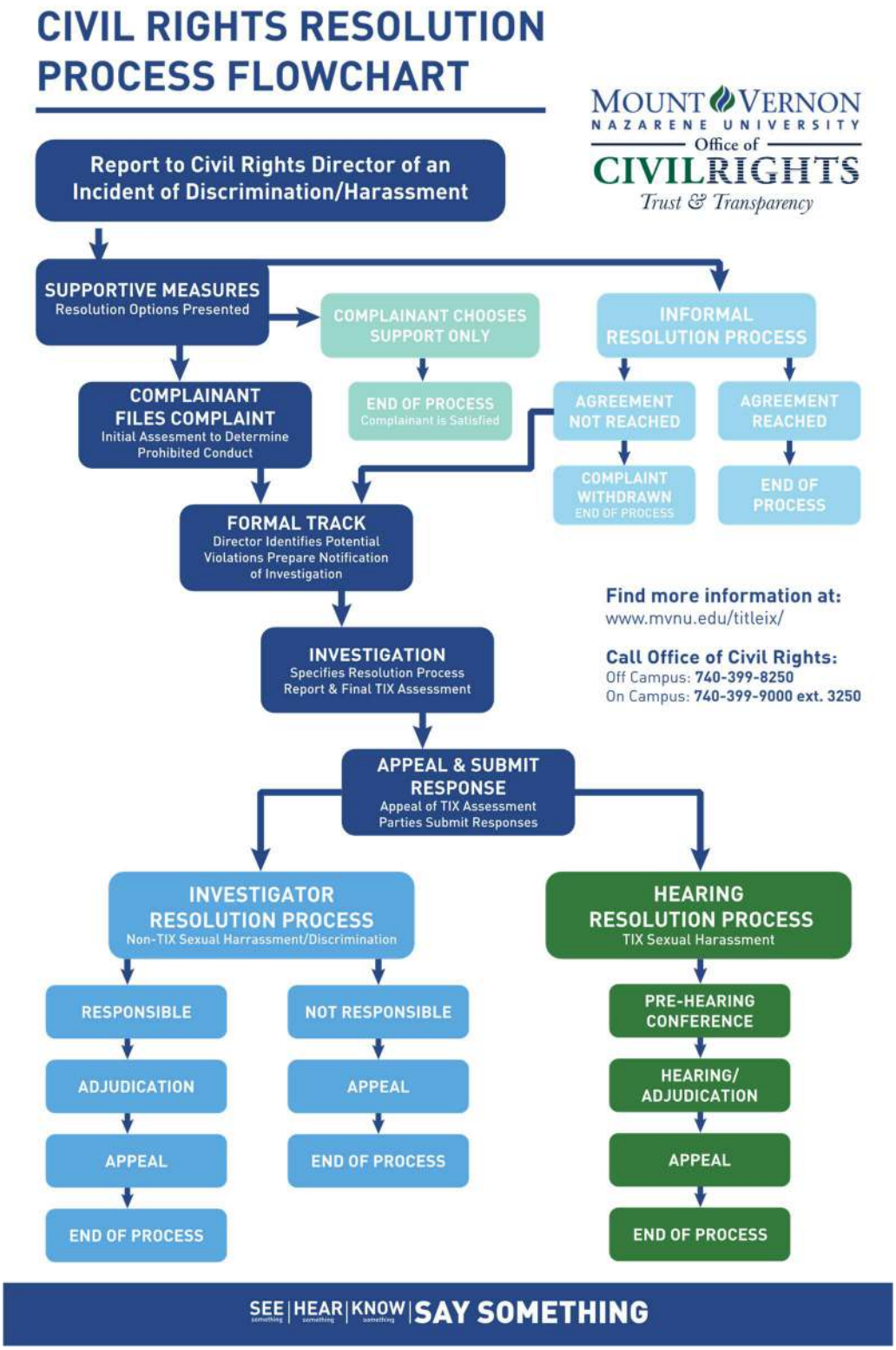
XVII. Appendix