SEXUAL DISCRIMINATION, SEXUAL HARASSMENT, AND SEXUAL VIOLENCE

Title IX Compliance

Introduction

Title IX provides that no person in the United States, on the basis of gender, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. The purpose of Title IX is to ensure equal access and fairness for men and women with regard to athletics, employment, admissions, financial aid, publications, educational programs, and student rights.

Sexual discrimination interferes with an individual's employment or educational performance and has the purpose or effect of denying or limiting an individual's access to or benefit from educational programs. Sexual discrimination includes sexual harassment, which also encompasses sexual violence.

Mount Vernon Nazarene University (the University) does not discriminate on the basis of gender in its educational programs or activities. The University does not tolerate sexual misconduct, which includes sexual discrimination, sexual harassment, or sexual violence on the part of any of its members and will take prompt and effective steps to end such misconduct.

To comply with Title IX, the University has developed a comprehensive policy that defines key terms. The policy defines the responsibilities of the Title IX Coordinator, Deputy Title IX Coordinator, and the Title IX Committee. The policy also establishes means of grievance resolution, provides sanctions for inappropriate behavior, establishes protocols for reporting, investigation, and resolution, as well as references University education, training, and awareness efforts.

Scope of Policy

<u>Individuals Covered by the Policy</u>

The Title IX policy applies to all University employees and students when engaged in University sponsored events on or off University property. Approved volunteers working in sponsored events are also subject to the policy as are invited guests participating in those events.

When University facilities are leased to outside agencies or organizations, and the event is not an official University sponsored event, the leasing organization is responsible to monitor, police, investigate, and sanction violations of Title IX protections.

<u>Geographic Scope of the Policy</u>

The Title IX prohibition against sexual discrimination or sexual misconduct applies to University owned or leased property, and areas adjacent to that owned or leased, if the University is reasonably expected to possess due control over such activities. The prohibition extends to University sponsored travel or sponsored activities and the geographic area in juxtaposition to those activities, whether or not the University owns or has expected control of that real estate.

Relationships Covered and Those Exempted

Reporting suspected violations of Title IX protection is required of all University students. The same expectation applies of all University employees and volunteers, deemed "responsible employees," except those exempted under federal, state, and local ordinances.

The reporting exemptions apply to professional counselors delivering mental health services under the auspices of state licensure or certification, ordained pastoral counselors and others performing official religious activities, and licensed medical personnel operating in that capacity. The exemptions include students enrolled in graduate counselor education programs and engaged in performing internship or preceptorship responsibilities under the supervision of a licensed counselor, psychologist, or social worker.

Selected employees or volunteers functioning in various front-desk or advocate assignments are required to report incidents of sexual misconduct to supervisors, but may not disclose identifying information, unless the complainant gives explicit permission to convey that identifying information.

University employees or official volunteers supervising minors (e.g., children in the preschool program) must report incidents of sexual misconduct involving those minors to the appropriate local authorities (e.g., Ohio Department of Job and Family Services) as required by law.

Confidentiality Protocol

While the complainant may request confidentiality, he or she needs to know that the request will be weighed against the seriousness of the allegation(s), that the University's ability to respond may be limited, and the FERPA rights of the respondent might be implicated. Please consult the University confidentiality protocol for more information.

Title IX Personnel

Title IX Coordinator

The Title IX Coordinator (the coordinator) shall direct University efforts to comply with and implement its responsibilities under Title IX. The coordinator reports to and is appointed by the Vice President for Academic Affairs (in consultation with the University's President). The coordinator is:

Aaron Quinn (Aaron.Quinn@mvnu.edu or 740-397-9000, ext. 4605)
Mount Vernon Nazarene University
800 Martinsburg Road
Mount Vernon, OH 43050

The responsibilities of the Title IX Coordinator include:

- Ensuring that the University properly disseminates Title IX policies and protocols;
- Providing contact information to University members;
- Ensuring that University education and training takes place;
- Chairing the Title IX Committee;
- Serving on the Athletic Committee;
- Overseeing Title IX complaints;

- Meeting with students, as needed;
- Ensuring that grievance resolution procedures are implemented promptly and equitably;
- Conducting and/or coordinating investigations; and
- Identifying and addressing systematic problems that arise during the review of Title IX complaints.

Deputy Title IX Coordinator

The Deputy Title IX Coordinator will work closely with the Title IX Coordinator to ensure a thorough and fair response to all claims of discrimination. The Deputy Title IX Coordinator is:

The responsibilities of the Deputy Title IX Coordinator include:

- Attending Title IX Committee meetings and being a part of the decision making process concerning Title IX
- Assisting the Title IX Coordinator with large and/or lengthy investigations
- Assuming the role of the Title IX Coordinator in his/her absence
- Conducting investigations if the Title IX Coordinator is named as a victim or perpetrator

Title IX Committee

The committee is comprised of these individuals.

- Title IX Coordinator (chair)
- Deputy Title IX Coordinator
- Assistant to the President for Effectiveness and Planning
- Athletic Director
- Campus Safety representative
- Director of Human Resources
- University Registrar
- Vice President for Student Life
- One coach (chosen by the Vice President for Student Life)
- One female Resident Assistant
- One male Resident Assistant
- One staff representative;
- Two faculty members, chosen at-large with alternating terms

The responsibilities of the committee include:

- Reviewing Title IX policies and procedures and making recommendations for improvement to the Senior Leadership Team;
- Conducting periodic self-evaluations of University programs, policies, and activities to determine compliance with Title IX requirements.
- Assisting with Title IX investigations, when requested;
- Serving on review panels, when necessary; and
- Assisting the Title IX Coordinator, as needed.

Reporting Policies and Protocols

Responsible Employees

Any responsible employee who has received information from a student, faculty member, or employee of the University regarding sexual misconduct of any nature must report the information immediately to the Title IX Coordinator, Vice President for Student Life, or other designated Title IX liaison. The University has designated the following as "responsible employees."

- Faculty (including adjunct)
- Student Life personnel
  - Dean of Students
  - Director of Intercultural Life
  - Resident Directors/Resident Assistants
- Director of Faculty Services, GPS
- Director of Student Services, GPS
- Athletic Director
- Campus Safety representative
- Coaches (contract and volunteer)
- Director of Human Resources
- Director of Admissions
- President
- Vice presidents
- Trip advisors (supervisors)
- Assistant Director of Facilities Operations
- Lead Housekeeper(s)

The following positions are exempt from the requirement to report incidents of sexual misconduct due to their role as professional and pastoral counselors.

- University counselors
- Director of Discipleship Ministries

Training for Responsible Employees

As an element in the University's broad sexual misconduct prevention and education efforts, MVNU conducts initial training and refreshers for its responsible employees. The training events are directed toward:

- Types of sexual misconduct
- Sexual misconduct prevention
- First-responder responsibilities and actions
- Confidentiality and amnesty provisions
- Grievance and adjudication procedures

Responsible employees are trained to inform a student, before a student reveals any information the student may wish to keep confidential of the following options and limitations.

- Responsible employees have an obligation to report the name(s) of the alleged perpetrator(s) and student involved in the alleged incident of sexual misconduct, as well as any relevant facts regarding the alleged incident (e.g., date, time, location) to the Title IX Coordinator or other designated Title IX liaison.
- The student has the option of requesting that the University maintain the student's confidentiality, which the University will consider under the confidentiality protocol.
- The student has the option to share the information confidentially with counseling or chaplaincy staff.

Confidentiality Protocol

While the complainant may request confidentiality, he or she needs to know that the request will be weighed against the seriousness of the allegation(s), that the University's ability to respond may be limited, and the FERPA rights of the respondent might be implicated. Please consult the University confidentiality protocol for more information.

Students, or parents of minor students, reporting incidents of sexual misconduct may ask that the student's name not be disclosed to the alleged perpetrators or that no investigation or disciplinary action be pursued to add to the trauma of alleged sexual misconduct. MVNU strongly supports a student's interest for confidentiality in cases involving sexual misconduct. There are situations, however, in which MVNU must override a student's request for confidentiality to meets its Title IX or other statutory obligations. These instances will be limited and the information should only be shared with individuals who are responsible for handling MVNU's response to incidents of sexual misconduct.

Prohibition of Retaliation

Mount Vernon Nazarene University forbids retaliation against any person making a complaint of prohibited conduct or against any person participating in the investigation of any such allegation. Retaliation should be reported promptly to the Title IX Coordinator or Director of Human Resources who will take immediate and appropriate steps to investigate or otherwise determine what happened. Retaliation is grounds for University disciplinary action.

Clery Act Reporting

The Jeanne Clery Act (1990) was originally enacted by Congress and signed into law by President George Bush in 1990 as the *Crime Awareness and Campus Security Act of 1990*. The Act was championed by Howard and Connie Clery after their daughter Jeanne was murdered at Lehigh University in 1986.

Educational institutions must publish by October 1st an annual report that includes 3 years of campus crime statistics and certain sexual assault policies that assure basic victims' rights, the law enforcement authority of campus safety officers, and where students should go to report the crimes.

The report is to be made available automatically to all current students and employees, while prospective students and employees are notified of its existence and afforded the opportunity to request a copy. A copy of the statistics must also be provided to the U. S. Department of Education.

Impact of Alcohol and Drugs

Alcohol and drugs have the ability to lower inhibitions, affect the decision making process, impact the awareness of consequences, and impact a person's ability to consent to sexual activity. [i] Sexual assaults on college campuses across the nation frequently take place in the presence of alcohol and/or drugs. The important question that arises in sexual assault cases involving alcohol and/or drugs is whether the individual **accused** of sexual assault knew, or should have known, that the individual complaining that he/she was sexually assaulted was ***incapacitated*** due to the use of alcohol and/or drugs and was therefore unable to consent to engaging in sexual activity with the accused.

Incapacitation is defined as a state beyond that of intoxication. Incapacitation cannot be proven by the complainant asserting he or she was incapacitated. Instead incapacitation is proven by a totality of the evidence. The presence of some or all of following factors shows that the initiator of sexual activity (the respondent) knew or should have known that his or her partner was incapacitated:

- The initiator of sexual activity (the respondent) knew his or her partner was drinking and/or using drugs and may have known how much and what kind;
- The partner was stumbling or otherwise exhibited loss of equilibrium;
- The partner exhibited slurred speech or word confusion;
- The partner had bloodshot, glassy, or unfocused eyes;
- The partner exhibited any signs of alcohol poisoning;
- The partner was vomiting, especially repeatedly;
- The partner was disoriented, or confused as to time, place, etc.; or
- The partner lost consciousness.[ii]

When determining whether an individual had the capacity to consent to sex, the University considers the following two questions:

1. Did the individual initiating sexual activity (the respondent), know that his or her partner was incapacitated?
2. If not, should a sober, reasonable person in the same position as the initiator of sexual activity (the respondent) have known that his or her partner was incapacitated?[iii]

If, through the course of the investigation, the University determines that the answer to either of these questions is "yes," then effective consent to sexual activity is not present.

Determining whether an individual is incapacitated from drugs and/or alcohol is difficult; therefore, the University strongly recommends that you err on the side of caution before engaging in sexual activity with a partner who is under the influence of alcohol and/or drugs. When in doubt, make the assumption that a partner is incapacitated and therefore unable to give consent for sexual activity. Likewise, for the individual initiating sexual activity, the respondent, being under the influence of alcohol and/or drugs is **never** a defense to a complaint of sexual assault.[iv]

Remember, if in doubt, the safest (and most respectful) thing to do is **not** engage in sexual activity: Walk out.

Questions of Amnesty

In efforts to prioritize student safety and reduce potential barriers to reporting medical emergencies, crimes or any situation that compromises student safety, MVNU will not pursue the standard, baseline disciplinary action in the following situations:

- Complainants of sexual or physical assault will be granted amnesty for violations that may have occurred at the time of the assault or violations that were revealed by the complainant during the course of investigation.*
- As a community of responsibility and care, student bystanders are expected to notify University personnel when a student is in need of emergency medical attention. University personnel will take into account and attempt to honor students who report medical emergencies despite having violated community lifestyle guidelines.*

**Students are still subject to existing federal, state, and local ordinances. The University will fully comply with any related investigation in the instance a crime has been committed.*

Options for Assistance Following an Incident of Sexual Misconduct

Sexual misconduct can occur on or off campus. All MVNU students and employees who report being a recipient of sexual misconduct are provided with the following information and rights:

- Incidents of sexual misconduct should be reported to the Title IX Coordinator, Deputy Title IX Coordinator, Resident Directors, Resident Assistants, Campus Safety (740-397-9000, ext. 8686), or the police.
- MVNU's Title IX Coordinator is:

Aaron Quinn – Dean of Students and Title IX Coordinator
Aaron.Quinn@mvnu.edu
#740-397-9000, ext.4605 or #740.390-1993
Hyson Campus Center – Student Life
Mount Vernon Nazarene University
800 Martinsburg Road
Mount Vernon, OH 43050

- It is important to preserve evidence of incidents of sexual misconduct for proof in criminal proceedings. Evidence preservation may be achieved through, but is not limited to, receiving a forensic medical examination. Even if an individual has not yet decided to report the incident to law enforcement it is important to preserve evidence of the sexual misconduct so that it may be used at a later date, if a report is made to law enforcement. The campus contacts named above receive training on the preservation of evidence and are available for consultation and assistance.
- While the complainant may request confidentiality, he or she needs to know that the request will be weighed against the seriousness of the allegation(s), that the University's ability to respond may be limited, and the FERPA rights of the respondent might be implicated. Please consult the University confidentiality protocol for more information.
- Recipients of alleged sexual misconduct possess the option to report to law enforcement authorities including the right to be assisted by campus personnel.
- Recipients of alleged sexual misconduct have the right to decline to report the incident to law enforcement officers.

- Recipients will receive information about no contact or protection orders that may be issued by a court. The University will honor any such no contact or protection order issued by a court.
- MVNU has established grievance resolution procedures. Recipients of alleged sexual misconduct must abide by the following process when they believe that they have been recipients of sexual misconduct and are seeking University resolution. Please consult Grievance Resolution Procedures.
- Recipients of sexual misconduct may request interim remediation actions and the University will provide the following when reasonably available:
  - Changes in academic, living, and working situations; and
  - Providing an escort to ensure that the person can move safely between classes and campus activities.
- Following an incident of sexual misconduct, the complainant may be eligible for Disability Services. To determine eligibility, please contact the Center for Student Success (ext. 4280).
- The following services are available on campus:
    - Counseling/Mental Health Services (740-397-9000, ext. 4610)
    - Student Health Services (740-397-9000, ext. 4632)
    - Residential Health Advisor (740 -358-0345, for health related concerns and non-emergency medical transportation overnight or weekends)
    - Chaplaincy Services (740-397-9000, ext. 4130)
    - Center for Student Success (740-397-9000, ext. 4280)
  - The following services are available off campus:
    - Knox Community Hospital (740-393-9000)
    - New Directions (740-397-HELP [4357])
    - Referrals to other off campus agencies may be made by MVNU's Counseling and Wellness Department (ext. 4610) on a case by case basis.

Investigation Policies and Protocols

When apprised of a sexual misconduct incident, the Title IX Coordinator will launch an investigation to determine whether:

- A prohibited conduct has occurred;
- There is an ongoing risk of harm for further prohibited conduct, and if so, what steps should be taken to prevent its recurrence;
- Accommodations for the complainant need to be put in place to redress the effects of the prohibited conduct;
- Accommodations or safety measures should be put in place to make the University community safe;
- The conduct warrants review by Student Life or Human Resources, if such a review has not been initiated; or
- Whether system-wide or local changes to policies, practices, or training should be considered and implemented.

Determination of Undertaking an Investigation

If a formal complaint has been filed, the Title IX Coordinator, or designee, will initiate a Title IX investigation, by meeting with the complainant, when possible, to provide information about the investigation process. A copy of this policy will be provided to the complainant. Before beginning an investigation, the Title IX Coordinator will contact the complainant and request consent to proceed with an investigation. An investigation may still go forward even if the complainant declines to consent, if appropriate, subject to the balancing test provided by the Department of Education, Office for Civil Rights' April 4, 2011 Dear Colleague Letter. That letter states that, in such cases, institutions should balance factors including:

- The seriousness of the alleged misconduct;
- The affected person's age;
- Whether there have been other misconduct complaints about the same alleged perpetrator; and
- The alleged perpetrator's rights to receive information about the allegations if the information is maintained by the educational institution as an "education record" under the *Family Educational Rights and Privacy Act* (FERPA) (20 U.S.C. § 1232g; 34 C.F.R. Part 99.1).

In some instances, the Title IX Coordinator may also refer the matter to another process (such as the student disciplinary process or the faculty disciplinary process) or to a University administrator (such as the Vice President for Student Life) to manage a concern on behalf of the Title IX Coordinator and in lieu of an investigation under this policy.

Time Frame of a Title IX Investigation

A Title IX investigation should normally be completed within 60 calendar days after the University has notice of an allegation of sexual misconduct. The Title IX Coordinator or their designee may extend this time frame for good cause, including University breaks.

Investigation Process

The key elements of the investigation include:

- Assigning an investigator. When a determination is made to proceed with a Title IX investigation, the Title IX Coordinator will investigate or will assign an investigator or investigators. The Title IX Coordinator can delegate all or part of their responsibilities under this policy.
- Standard of review. This Title IX investigation procedure will determine findings of fact using the "preponderance of the evidence" standard (i.e., it is more likely than not that the prohibited conduct occurred).
- Cooperation. All MVNU faculty, staff, and students are expected to cooperate in the investigation process, although students have the right not to incriminate themselves.
- Notice of investigation. At the outset of an investigation, the investigator will advise the respondent of the allegations in writing (i.e., a formal complaint) and a copy of the formal complaint will be provided to both the respondent and complainant.
- Opportunity to participate. Both the respondent and the complainant will have an opportunity to respond to the formal complaint in writing (within 10 calendar days of receipt of the formal complaint) and in a meeting with the investigator. Both parties have the right to request that

the investigator meet with relevant witnesses and evaluate relevant documentary or other evidence.

- Support person. Both the complainant and respondent may have an advisor/advocate accompany him or her through the process. The advisor/advocate's role is consultative only and therefore they may not speak for the student.
- Fact finding. The investigation may include, but is not limited to, conducting interviews of the complainant, the respondent, and any witnesses, reviewing law enforcement investigation documents, if applicable, reviewing student and personnel files; and gathering and examining other relevant documents or evidence.
- Evidentiary determinations. The investigator has broad discretion in determining whether an offered witness or documentary evidence would be relevant or helpful to a determination of responsibility. For example, some reasons an investigator might decline to speak to an offered witness include:
  - There is an insufficient basis that the person could have relevant information to the factual determination;
  - The information to be solicited would be repetitive; and
  - Confidentiality concerns are balanced against the importance of the information.

  Similarly, some reasons that an investigator might decline to seek or review documentary evidence include:
  - The University does not have the expertise to consider scientific evidence;
  - The information is repetitive;
  - Cost considerations balanced against the importance of the information; and
  - Confidentiality concerns balanced against the importance of the information.
- Review of Title IX Coordinator. In the event the investigator is not the Title IX Coordinator, the investigator may provide a written report to the Title IX Coordinator, as appropriate to assist the decision-maker. In such cases, the Title IX Coordinator will review the report and may request further review from the investigator, or may ask for additional information directly from parties or witnesses.
- Investigation outcome. Upon completion of the investigation and review of all materials, the Title IX Coordinator or their designee will issue each party a written notice of outcome including finding(s) of fact, and if applicable, any actions the University will take to provide accommodations to the complainant, or safety measure(s) for the University community. The content of each letter may be modified subject to the limitations of FERPA and other relevant federal or state privacy laws and will also describe whether any systemic remedies are being considered or implemented. Additionally, the letter may include a recommendation that the matter be referred for disciplinary review by another University process, such as the student discipline process or the employee discipline process. Where prohibited conduct has been found to have occurred by the respondent, the outcome letter will be provided to the Vice President for Student Life, the respondent's supervisor, Director of Human Resources, or chief academic officer, as appropriate under the circumstances. The President will be informed of all actions taken.

Appeal

If the complainant or the respondent is dissatisfied with final determinations made under this policy, either may appeal the decision to a review panel. The appeal must be made within 5 days of the date on which the Title IX Coordinator informs the parties of the investigation outcome. A delay in filing the appeal may be grounds for rejection of that appeal. The appeal should follow the standards for review

provided here and the appeal should state the remedy sought by the appealing party. The appeal will be heard by a review panel. Please consult the Review Panel section for deadlines and operational details.

- Grounds for appeal. The grounds for the appeal will usually be limited to the following considerations.
  - Is there new compelling evidence that was not available at the time of the initial review? Were the proper criteria brought to bear on the decision? Were improper or extraneous facts or criteria brought to bear that substantially affected the decision to the detriment of the appealing party?
  - Were there any procedural irregularities that substantially affected the outcome of the matter to the detriment of the appealing party?
  - Given the proper facts, criteria and procedures, was the decision one that a person in the position of the decision-maker might reasonably have made?

Preservation of Evidence

The University encourages all individuals to seek assistance from a medical provider and/or law enforcement agency immediately after an incident of sexual misconduct. This is the best option to ensure preservation of evidence and to begin a timely investigative and remedial response. The University will assist any MVNU community member in getting to a safe place and will provide transportation to the hospital, coordination with law enforcement, and information about the University's resources and complaint processes.

Individuals who are recipients of sexual violence, domestic violence, or dating violence should do everything possible to preserve evidence by making certain that the crime scene is not disturbed. There is a limited window of time (typically 72 to 96 hours) following an incident of sexual assault to preserve physical and other forms of evidence.

Preservation of evidence may be necessary for proof of the crime or in obtaining a protection order. Recipients of sexual violence, domestic violence, or dating violence should not bathe, urinate, douche, brush teeth, or drink liquids until after they are examined and, if necessary, a rape examination is completed. Clothes should not be changed.

It is also important to take steps to preserve evidence in cases of stalking, to the extent such evidence exists. In cases of stalking, evidence is more likely to be in the form of letters, emails, text messages, etc. rather than evidence of physical contact and violence. Taking the steps to gather evidence immediately does not commit an individual to any course of action. The decision to seek medical attention and gather any evidence will remain confidential and preserve the full range of options to seek resolution through the MVNU's complaint processes or through the pursuit of criminal action.

Preservation of Electronic Evidence

The Title IX Coordinator or investigator will work in collaboration with the University's Information Technology Services Department to ensure that any potential electronic evidence of sexual misconduct is preserved.

Accommodations, Safety Measures, and Remedial Actions

Accommodations, safety measures, or remedial actions may be employed during investigations, the appeal process, or following the determination of outcomes.

Accommodations and Safety Measures

The University will take steps to prevent the recurrence of prohibited conduct through safety measures, and will redress its effects through appropriate accommodations. To the extent reasonable and feasible, the University will consult with the complainant and the respondent in determining accommodations and safety measures. Appropriate actions may include these options.

- Reassigning to alternate housing
- Changing class schedules, campus employment schedules, or job assignments
- Issuing "no contact" directives
- Limiting extracurricular or athletic activities
- Removing the respondent from the University community
- Placing an employee on administrative leave
- Referring a responsible perpetrator to University disciplinary processes
- Providing an escort to ensure safe movement between classes and activities
- Providing access to resources including counseling services and academic support
- Review or revising University policies or practices
- Training
- Other appropriate actions as necessary to stop the prohibited conduct, prevent its recurrence, remedy its effect on the complainant, or improve University policies or practices.

Interim Measures

When the University has notice of an allegation of sexual misconduct, a qualified University staff member may impose interim accommodations or safety measures, which will generally remain in effect throughout the duration of the Title IX investigation. The University will consider multiple factors in determining what interim measures to take, including, for example:

- The specific need expressed by the complainant;
- The age of the students involved;
- The severity or pervasiveness of the allegations;
- Continuing effects on the complainant;
- Whether the complainant and the respondent share the same class, residence hall, transportation, or job location; and
- Whether other judicial measures have been taken to protect the complainant.

The University will take responsive action to enforce interim measures. When a qualified University staff member imposes interim measures, a report of the actions taken should be reported to the Title IX Coordinator as soon as possible.

Potential Accommodations in the Event of No Investigation

Even if the University decides not to confront the alleged perpetrator because of the affected person's request for confidentiality, the University may pursue other reasonable steps to limit the effects of the alleged misconduct and prevent its recurrence as reasonable in light of the affected person's request for confidentiality.

Grievance Resolution Procedure

Any person enrolled at or employed by the University who (1) believes that s/he has been a recipient of sexual misconduct (e.g., sexual discrimination, sexual harassment, or sexual violence) and (2) seeks University resolution, is obligated to follow the below process. If the incident warrants investigation by law enforcement authorities, the Title IX Coordinator will initiate contact.

The complainant and the respondent have identical rights during any investigation and resolution. Those include the right to an advisor/advocate of choice during all stages of the process. The advisor/advocate's role is consultative only.

Strict adherence to time frames is required; otherwise, the complainant will be time-barred from pursuing a complaint. Under certain circumstances (e.g., holiday break, sickness or unavailability of one of the participants, etc.), the University may extend a particular deadline of its own volition or upon the reasonable request of the complainant or the respondent.

Step 1 – Consultation

Complainants are to seek counsel and guidance early, before the alleged misconduct escalates. Consultation will take place no more than 15 days after the incident or report of the incident. Complainants are to consult with a liaison to gain perspective, seek direction, and, if necessary, discuss coping strategies. As these discussions are exploratory and definitional in focus, only a log is required. The liaison will notify the Title IX Coordinator, who will keep the log. The log will contain the name of the complainant, the date of the consultation, and a brief description of the incident. *Consultation is a common prerequisite to Step 2*.

Step 2 – Informal Mediation

If after consultation the complainant wishes to pursue the matter further, the complainant meets with the Title IX Coordinator no more than 15 days after consultation (Step 1). The complainant may request the assistance of a liaison. The coordinator will make inquiries of the respondent and may arrange for a mediation session of the parties together, at which the coordinator will preside. The goals of these discussions are to discuss the meaning of Title IX, identify misconduct behavior, propose remediation, and develop plans to modify the policy or practice from which the misconduct behavior arose. It is expected that the entire informal mediation process be completed within 30 days after the consultation (Step 1). The coordinator shall keep a record of the matter, results of all meetings, and remedial actions. *Informal mediation is typically prerequisite to Step 3*, except in the most egregious misconducts.

Step 3 – Formal Grievance

If the complainant deems the incident to be persistent or severe, or believes that informal mediation efforts have not satisfactorily resolved the matter, the complainant may file a written complaint with the Title IX Coordinator. The complaint may also be filed by a parent, guardian, or a third party on affected person's behalf. The complaint must be filed no more than 15 days after the informal mediation process (Step 2) is completed. The complainant may request the assistance of a liaison. If necessary, the University may take interim remediation actions.

Within 60 days of receiving the written complaint, the coordinator will complete a formal investigation. The coordinator shall determine whether the facts support the allegations and, if so, recommend disciplinary action, up to and including expulsion from the University. The coordinator shall develop a detailed report that summarizes the allegations, the facts, and the recommended disciplinary action. The Director will inform the complainant and the respondent of the outcome simultaneously, in writing, of any institutional disciplinary proceeding, the procedures for the victim and respondent to appeal the results of the proceeding, any changes to the results, and when such results become final. This shall be done within 5 days of the completion of the investigation. If it is impossible to inform the complainant and respondent simultaneously in writing, the coordinator will keep a record of when notification to the complainant and respondent was made and will note the reason why it was not possible to inform the complainant and respondent simultaneously. *Filing a formal grievance is a prerequisite to Step 4*.

Step 4 – Review Panel

Either the complainant or the respondent may appeal the responsibility decision to a review panel. The appeal must be made within 5 days of the date on which the coordinator informs the appellant of the decision in Step 3.

The panel shall consist of five (5) individuals from the Title IX Committee. The Title IX Coordinator shall choose these individuals and designate the panel chair. The panel shall not be comprised of individuals who are all the same gender. The coordinator shall not serve on the panel.

A Title IX Committee member who is named in a complaint shall be disqualified from serving on the panel. The same holds true if a Title IX Committee member's immediate family is involved in the incident or its investigation.

The complainant and the respondent may invite one advisor of choice to the review panel hearing. For the complainant, this may be a liaison. The advisor's role is consultative only; the advisor is not permitted to question hearing participants or make public comments to participants in the hearing.

The review panel hearing shall be conducted in accordance with the following procedures:

- The chair will convene the meeting, introduce the individuals, give a brief description of the process, and invite questions about the process.
- The chair will read the allegation(s) and call for the report of the Title IX Coordinator.
- The coordinator will submit the report as evidence and discuss the same.
- Members of the panel may question the coordinator.
- The complainant may read a brief initial summary statement.
- The respondent may read a brief initial response statement.
- The complainant may present evidence and witnesses regarding the allegations.

- The respondent may present evidence and witnesses regarding the allegations.
- The complainant may present a brief final summation.
- The respondent may present a brief final summation.
- After hearing from the coordinator, complainant, and the respondent, the panel shall deliberate in unrecorded executive session, during which it will consider the evidence, establish findings, develop sanction recommendations, and include an appropriate time frame within which the recommendations will be carried out.
- Within 10 days of the close of the hearings, the chair will submit a written report that summarizes the findings, sanction recommendations, and time frame to the following individuals:
  - The complainant;
  - The respondent;
  - The Title IX Coordinator; and
  - The appropriate vice president, who in consultation with the President) will take the necessary action to resolve the issue within the time defined in the chair's report.
- The panel determination is final and non-appealable.
- The chair will inform the complainant and the respondent of the review panel's written report simultaneously. If it is not possible to inform the complainant and respondent simultaneously in writing, the chair will keep a record of when notification to the complainant and respondent was made and will note the reason why it was not possible to inform the complainant and respondent simultaneously.

Other review panel and hearing considerations are as follows:

- To prevent the hearing from being traumatic or intimidating to the complainant or the respondent, questioning will be restricted to panel members. The complainant and the respondent cannot cross-examine or question each other or any witnesses.
- With the exception of the advisor chosen by the complainant and respondent, other individuals considered external to the appeal, including, but not limited to parents, relatives, media representatives, and guests are not permitted to participate in any way or attend any meetings or hearings.
- The complainant's burden of proof shall be "a preponderance of the evidence" (i.e., more likely than not), rather than the higher "beyond a reasonable doubt" standard that is required in criminal cases or the "clear and convincing" standard that is found in some civil cases.
- If the complainant expresses discomfort or requests isolation, the chair will provide for separation of the complainant and the respondent during the hearing.
- Due to state and federal laws that protect the complainant from inquiry about prior sexual history (i.e., rape shield laws), the complainant may not be questioned about prior sexual history.
- If the panel determines that permanent separation orders are appropriate, the appropriate supervisory personnel are responsible for implementing the same.
- Panel members are to maintain confidentiality of the information presented in the hearing and their deliberations. All communications to the campus or beyond must go through the chair (in consultation with the President). All records related to the matter shall remain confidential and subject to release only to the panel, the President, and the appropriate vice president, unless otherwise required by law.
- If necessary, the panel may consult with the University attorney.

Investigation and Review Panel Outcomes

Some accommodations, safety measures, and remedial action available to the complainant during investigations and hearings are normative after the determination of responsibility. Please consult the accommodations and remedial actions section.

Potential Sanctions for Respondent

Possible sanctions that may result from an institutional disciplinary proceeding include those outlined in student, faculty, and staff handbooks. Disciplinary action, up to and including expulsion or termination from MVNU, are possible sanctions.

Continuing Protection for Complainant

Within a reasonable time after the hearing, the Title IX Coordinator will conduct a post-incident follow-up with the complainant and provide a written summary to the appropriate vice president and the President. The University will take necessary steps to prevent recurrence and remedy the effects of the incident of sexual misconduct upon the complainant.

Frivolous, False, or Malicious Charges

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 claims, false claims, or malicious charges without regard to the truth. After the completion of remediation efforts, if the Title IX Coordinator concludes that the complainant's allegations were false, frivolous, or malicious, the coordinator may recommend disciplinary action against the complainant, up to and including expulsion or termination from the University.

Protocols for Sexual Harassment or Sexual Violence

When the sexual misconduct is egregious and involves actions endemic to sexual harassment or sexual violence, the resolution process merits an expedited and altered process.

- The complainant may bypass or end Step 1 or Step 2 at any time and proceed directly to Step 3.
- Informal mediation (Step 2) of complaints alleging sexual assault or sexual violence is not appropriate under any circumstances.
- Complainants have the right to have the incident investigated by law enforcement authorities, have full and prompt cooperation and assistance in obtaining evidence necessary for proof of criminal acts (including a medical examination), and have the accused tested for communicable diseases. The Title IX Coordinator will inform the complainant as to how to contact law enforcement authorities and will assist in the process, if the complainant requests.
- If law enforcement authorities are involved, the Title IX Coordinator will request access to their notes. Any memorandum of understanding between the University and law enforcement authorities must allow the University to meet its Title IX obligation to promptly investigate complaints, even though it may delay University fact-finding. Interim remediation actions, if any, will remain in effect during this time.
- The University will treat all complainants with respect, whether or not they wish to pursue the matter with law enforcement authorities, make their options clear, cooperate with them in

exercising options, and assist them in the investigation. Complainants should be treated physically and emotionally in a timely and proper manner, and be made aware of the importance of preserving evidence that may be necessary to the proof of a criminal act.

- All students and employees of MVNU who report that they have been the recipient of an incident of sexual violence will be provided with a one page document describing their rights and options.
- The Title IX Coordinator will inform the complainant about who to contact to file for a protection/restraining order.
- Regardless of the action or lack of action by law enforcement authorities, the University will discipline individuals who are accused of sexual harassment or sexual violence based on the evidence it has before it; subsequent to appropriate investigation.
- Complainants should immediately report the incident to a resident director, a resident assistant, a counselor, medical or safety personnel, or the police. Emergency 911 service is available to report a crime in progress.
- Complainants have the right to be free from pressure from University authorities to report crimes as lesser offenses.
- Counseling and mental health services (some fee-based and some for no charge) are available to complainants, both on the main University campus and in the community.
- A full-time University registered nurse is normally available each weekday during the academic year. In the event of the nurse's absence or when evening and weekend medical services are needed, these services may be obtained by contacting MVNU medical or safety personnel.
- The University does not provide legal services to faculty, staff, or students.
- If a resident student feels physically or sexually intimidated, the student should report such to the resident director, and may request a change in academic and living situations, if such changes are reasonably available.
- By law, when complainants are under 18 years of age, the Title IX Coordinator will immediately notify the parents or guardians, the appropriate state agency, and law enforcement authorities.

Prevention and Education

Consistent with institutional values that reflect respect for others, the University educates its members as to how to identify and prevent sexual discrimination, sexual harassment, sexual violence, and other inappropriate behavior. This education includes bystander training to encourage members of the campus community to take responsibility for actions that occur around them and to reinforce the message that sexual discrimination, sexual harassment, and sexual violence will not be tolerated at MVNU. With this knowledge, University members become more sensitized and can help keep the University community free of these behaviors.

Programs to increase awareness about interpersonal violence and to meet the needs of MVNU students, faculty, and staff have been created. These programs promote healthy sexuality and relationships, dispel myths about sexual and relationship violence, examine gender roles and how they relate to Interpersonal Violence, provide guidance on risk reduction, advise students of available resources and explore how each individual can become empowered to end sexual and relationship violence. The Title IX Committee is always seeking new ideas and opportunities for collaboration, acknowledging with appreciation the expertise and experiences of students and colleagues as the University aims to work together to create a violence-free community.

Programming efforts include related examples.

- Bystander intervention
- Defining manhood and masculinity from an anti-violence perspective
- Relationship abuse
- Sexual misconduct and sexual assault
- Understanding sexual consent

Such programs are designed to meet the needs of specific audiences. Appropriate speakers can come to residence hall meetings, classes, or where student groups gather. Presentations are structured to encourage dialogue, reflection, and critical thinking about interpersonal violence, as well as to offer ways to challenge thoughts and behaviors that contribute to this violence. Student leaders are encouraged to contact Student Life or the Title IX Coordinator to discuss group needs and to arrange for a program. The Title IX Coordinator also acknowledges "Take Back the Night" and other public awareness events coordinated through Student Life at which students will be provided information about students' Title IX rights.

Training

Specific training in the Title IX Policy undergirds prevention. Although this is not intended to be an exhaustive list, the following are illustrative:

- The Title IX Coordinator keeps abreast of current regulations and advises the Title IX Committee on significant changes.
- The Title IX Committee reviews the Title IX Policy and conducts periodic self-evaluations of University programs, policies, and activities to determine compliance with Title IX requirements.
- The Title IX Policy is disseminated through multiple media, including, but not limited to, publications (e.g., catalogs, handbooks, etc.), the University website and portal, orientations, awareness programs, and placement in prominent campus locations.
- The Title IX Contact poster is displayed on the main campus, at non-main campus locations, and on the University web sites.
- Resident directors and resident assistants review policies and procedures during fall orientation.
- Coaches advise athletes of policies and procedures at the beginning of their seasons.
- Students involved in off-campus study travel are advised of policies and procedures before they begin their studies.
- Students involved in practica, clinical experiences, student teaching, and other off-campus studies are advised of policies and procedures before they begin those studies.
- University personnel receive Title IX training.
- By virtue of their roles, Title IX Committee members, Student Life staff, Campus Safety and University leadership (Academic Leadership and Senior Leadership Teams) will be trained on investigative and disciplinary hearing procedures including but not limited to, the preponderance of the evidence standard, preservation of evidence, and university investigative and hearing protocols.

Definitions

The definition of key terms referenced in this policy statement follows.

- Sexual misconduct. Offenses that could be a violation of Title IX if gender based are: sexual misconduct, retaliation, stalking, bullying, and cyber-bulling. Sexual misconduct offenses include, but are not limited to: sexual discrimination, sexual harassment, and sexual violence.

- Responsible employee. According to the Office for Civil Rights' (OCR) *2001 Guidance*, a responsible employee includes any employee:
  - Who has the authority to take action to redress sexual violence;
  - Who has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Director of Title IX Compliance or other appropriate school designee; or,
  - Whom a student could reasonably believe has the authority to do so.
- Retaliation. Intimidating, coercing, or retaliating against individuals because they have engaged in activities protected by Title IX such as an investigation into sexual misconduct (National Center for Higher Education Risk Management, 2011).
- Consent. *The Campus SaVE Act* has defined consent to mean the affirmative, unambiguous, and voluntary agreement to engage in a specific sex act during a sexual encounter. Consent cannot be given by an individual who is asleep, who is mentally or physically incapacitated through drugs and/or alcohol, or for any other reason, or who is under duress, threat, coercion, or force. Statutory law in Ohio impliedly reflects the definition and the limitations to the ability to consent outlined in *The Campus SaVE Act*. Ohio defines the age of being able to consent as sixteen (ORC §2907.04).
- Sexual discrimination. Inequitable treatment of individuals on the basis of gender.
- Sexual harassment. Unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment occurs where:
  - Submission to such conduct is made either explicitly or implicitly as a term or condition of employment or education ("quid pro quo");
  - Submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting the individual ("quid pro quo"); or,
  - Such conduct creates an intimidating, hostile, offensive, or demeaning employment or educational environment.
- Hostile environment sexual harassment. Sexually harassing conduct by an employee, another student or a third party that denies or limits a student's ability to participate in or benefit from the school's programs based on sex. Factors that will be taken into account to evaluate hostile environment sexual harassment are:
  - The degree to which the conduct affected one or more student's education;
  - The type, frequency, and duration of the conduct;
  - The identity of and relationship between the alleged harasser and the subject(s) of the harassment;
  - The number of individuals involved;
  - The age and sex of the alleged harasser and the subject(s) of the harassment;
  - The size of the school, location of the incidents, and the context in which they occurred;
  - Other incidents at the school; or
  - Incidents of gender-based, but nonsexual harassment
- Sexual exploitation. Taking advantage of the sexuality and attractiveness of a person to make a personal gain or profit. It is the abuse of a position of vulnerability, differential power, or trust for sexual purposes.
- Sexual violence. A form of sexual harassment prohibited by Title IX defined as any physical sexual act perpetuated against a person's will or where the person is incapable of giving consent due to that person's use of drugs or alcohol. Sexual violence includes, but is not limited to, rape, sexual assault, sexual battery, sexual imposition, and gross sexual imposition. (Additional information can be obtained from the Student Life Office.)

The Campus Sexual Violence Elimination Act of 2013 (*The Campus SaVE Act*) has further defined sexual violence to include the following offenses:

Offense	Jurisdictional Definition (where available)	Federal Definition
Dating Violence		The term "dating violence" means violence committed by a person (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship. (ii) The type of relationship. (iii) The frequency of interaction between the persons involved in the relationship (42 USC §13925(a)(10)).
Domestic Violence	Domestic Violence means the occurrence of one or more of the following acts against a family or household member: (a) Attempting to cause or recklessly causing bodily injury; (b) Placing another person by the threat of force in fear of imminent serious physical harm or committing a violation of section 2903.211 or 2911.211 of the Revised Code; (c) Committing any act with respect to a child that would result in the child being an abused child, as defined in section 2151.031 of the Revised Code; (d) Committing a sexually oriented offense. (ORC §3113.31 (A)(1)(a-d))	The term "domestic violence" includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction (42 USC §13925(a)(8)).
Sexual Assault		The term "sexual assault" means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent. (42 USC §13925(a)(29)).
Stalking	Stalking or menacing by stalking means: (1) No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or cause mental distress to the other person.	The term "stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for his or her safety or the safety of others; or

	(2) No person, through the use of any electronic method of remotely transferring information, including, but not limited to, any computer, computer network, computer program, or computer system, shall post a message with purpose to urge or incite another to commit a violation of division (A)(1) of this section. (3) No person, with a sexual motivation, shall violate division (A)(1) or (2) of this section. (ORC §2903.211 (A)).	(B) suffer substantial emotional distress (42 USC §13925(a)(30)).

Policy Review History:

- **Approved by the Senior Leadership Team (November, 2011)**
- **Updated (March 2012). Updates made to Title IX Committee faculty and staff representative language.**
- **Updated (March 2014). Updates made to policy to meet requirements of the Campus Sexual Violence Elimination Act (Campus SaVE Act) of 2013. Revised policy approved by the Title IX Committee on Thursday, April 17, 2014. The Senior Leadership Team reviewed and added recommendations to the revised policy on Tuesday, May 13, 2014.**
- **Updated (October 2015). Updates made to policy to meet requirements of the final rule found at 34 CFR Part 668 implementing Campus Sexual Violence Elimination Act (Campus SaVE Act) of 2013 and to use the model policy template provided by the White House Task Force to Protect Students from Sexual Assault. Revised policy approved by the Title IX Committee on Tuesday, September 15, 2015. The Senior Leadership Team reviewed and added recommendations to the revised policy on Tuesday, October 6, 2015.**

[i] Massachusetts Institute of Technology (MIT). (n.d.). Title IX: Preventing and Addressing Sexual Misconduct at MIT: Use of Alcohol and Other Drugs. Retrieved from https://titleix.mit.edu/reporting/alcohol, ¶ 1.

[ii] Association of Title IX Administrators (ATIXA). (2014, April24). ATIXA Tip of the Week: Sex and Booze. Retrieved from https://atixa.org/wordpress/wp-content/uploads/2012/01/ATIXA-Tip-of-the-Week-04_24_141.pdf, pp. 1-2.

[iii] Massachusetts Institute of Technology (MIT). (n.d.). Title IX: Preventing and Addressing Sexual Misconduct at MIT: Use of Alcohol and Other Drugs. Retrieved from https://titleix.mit.edu/reporting/alcohol, ¶ 2.

[iv] Massachusetts Institute of Technology (MIT). (n.d.). Title IX: Preventing and Addressing Sexual Misconduct at MIT: Use of Alcohol and Other Drugs. Retrieved from https://titleix.mit.edu/reporting/alcohol, ¶ 1.