

Messiah College Policy and Procedure Manual: Employment Policies

- 1.01 **NON-DISCRIMINATION IN EMPLOYMENT.** In accordance with federal and state laws regarding non-discrimination, Messiah College does not discriminate on the basis of gender, race, color, age, disability, or national or ethnic origin in hiring and promotion, in the administration of its educational policies, scholarship and loan programs, and athletic or other College administered programs except as such conditions may constitute bona fide occupational or assignment qualifications. All employees are to abide by this policy in order to provide a work environment free from discrimination.

Decisions relating to all aspects of College life, including hiring and promotions, shall be influenced by the pervasively religious nature of the College (a religious educational institution) which has its roots in a religious tradition and which operates in a manner specifically consistent with the Statements of Faith, Foundational Values, Educational Objectives, and Community Covenant of Messiah College, all of which appear in the publication entitled *Essential Commitments*.

Persons who feel they have experienced unlawful discrimination should notify the Director of Human Resources, who is the College official responsible for issues involving non-discrimination and equal opportunity. The Department of Human Resources is located in the Old Main Building and can be reached at extension 5300.

When vacancies occur, every appropriate effort is made to recruit women and minorities. The College's goal is to attract and retain employees of high quality and diverse backgrounds. By so doing, the College recognizes the potential of all individuals who wish to participate in or seek entrance to the work force.

The Director of Disability Services is the designated Section 504 and ADA Coordinator to assist individuals with disabilities. The Director of Disability Services is located in the Hoffman building on campus and can be reached at extension 7258.

- 1.02 **PERSONNEL RECRUITMENT.** Supervisors for each work area are responsible for recruitment of new employees after approval by the Provost or appropriate Vice President. This is done in consultation with the Director of Human Resources and in accordance with established hiring guidelines.
- 1.03 **EMPLOYMENT CLASSIFICATIONS.**

For purposes of clarity and uniformity in employment policies, College employees are classified as teaching faculty, administrative employees, or staff employees. These classifications pertain to the employment relationship between the employee and the College and do not relate to their particular roles or to distinctions made for governance purposes. An employee within any of these classifications may be either full-time or part-time, as outlined below.

Full-time Employee – an employee that works a minimum of 1560 hours per fiscal year. Full-time employees are fully benefit-eligible. Full-time employees working less than 2080 have their salary and vacation/sick/personal accrual adjusted accordingly.

Part-time Employee – an employee that works between 1000 and 1559 hours per fiscal year, but is employed in a regular, continuing assignment. Part-time employees with over 1040 hours per fiscal year are eligible for pro-rated sick, vacation, personal, and holiday pay, as well as 50% of Educational Assistance at Messiah College upon vesting, and are eligible to purchase single medical coverage. Part-time employees with over 1000 hours per fiscal year are eligible for 403b participation.

Limited-hour Employee – an employee that works less than 1000 hours per fiscal year, but is employed in a regular, continuing assignment. These employees are not eligible for benefits, leave, or 403b participation.

Temporary Employee – an employee that works less than 1000 hours per fiscal year and is not employed in a regular, continuing assignment. These employees have longer, limited-term assignments than occasional employees. They are not entitled to receive benefits.

Occasional Employee – an employee whose work assignment is on a seasonal and/or on-call basis. These employees typically have shorter-term assignments than temporary employees. They are not entitled to receive benefits.

- 1.03.01 **Teaching Faculty.** Teaching faculty include those defined in the Community of Educators Handbook as Instructor, Assistant Professor, Associate Professor, and Professor. Also included among teaching faculty are those defined in the Community of Educators Handbook as Lecturer, Adjunct, Visiting Professor, and Scholar/Artist-in-Residence. All teaching faculty are salaried personnel who are employed on a contractual basis.
- 1.03.02 **Administrative Employees (Exempt).** Administrative employees are salaried personnel who are paid based upon an annualized base salary and are considered to be "exempt" employees (i.e., are not subject to the provisions of federal and state laws which regulate wages and hours). They may direct programs or activities involving the education or development of students, relate to the public in a recruitment or College advancement function, provide technical expertise, or administer the work of others. Some administrative employees are designated in the Community of Educators Handbook as librarians, co-curricular educators, or curricular administrators.
- 1.03.03 **Staff Employees (Non-Exempt).** Staff employees are personnel (other than students) who are paid on an hourly basis and are considered to be "non-exempt" employees (i.e., are subject to the provisions of federal and state laws which regulate wages and hours). They are neither teaching faculty nor administrative employees and may be secretarial/clerical, service/maintenance, or skilled craft employees.
- 1.04 **EMPLOYMENT RELATIONSHIP.** Employment of administrative and staff employees is on an "at will" basis and for no definite period. Employment may, regardless of the time and manner of payment of wages, be terminated at any time with or without cause or notice by either the College or the employee. Any wage figures provided to an employee in the initial confirmation letter or in any annual or monthly terms are stated for the employee's convenience and do not create an employment contract for any specific period of time.
- 1.05 **PRE-EMPLOYMENT CRIMINAL HISTORY RECORD CHECKS.**

(Revised, Oct. 2002)

Consistent with Pennsylvania law, Messiah College may consider felony and misdemeanor convictions in deciding whether or not to employ an applicant. A conviction may be considered to the extent to which it relates to the applicant's suitability for employment in the position for which he or she has applied.

The College will require criminal history record checks of all applicants to whom employment is offered. Any offer of employment prior to the completion of a criminal history record check will be made subject to receipt of a report which is satisfactory to the College. The offer will be withdrawn if a satisfactory report is not received.

College employees are responsible to disclose to the Department of Human Resources any felony or misdemeanor convictions which occur subsequent to the date of employment.

Employment applications will include a consent form authorizing the College to conduct a criminal history record check. If an applicant refuses to sign the consent form, any offer of employment will be withdrawn and the applicant will not be employed. An applicant who fails to disclose a felony or misdemeanor conviction on his or her employment application may be discharged from employment for falsification of the application.

The College may not release criminal conviction information to any third party except as required by law.

The employee may review his/her background check in Human Resources in accordance with the Personnel File Review Policy.

Interpretation of Policy

Inquiries concerning interpretation of this policy should be directed to the Office of Human Resources, which shall be responsible for maintenance and revision of the policy.

Effective Date

This policy shall be effective as to applicants for employment on or after January 1, 2003.

1.06 LETTERS OF APPOINTMENT.

An offer letter delineating general responsibilities and salary provisions is issued to administrative employees upon hiring. Upon hiring, staff employees are issued an initial confirmation letter that serves to confirm the employee's job title, wage grade, and initial hourly wage. Compensation statements for subsequent years are issued to both administrative and staff employees when deemed appropriate. By accepting a letter of appointment or compensation statement, an employee indicates affirmation and support of the Statements of Faith and other named foundational statements of the College.

The College reserves the right to preserve the employment-at-will relationship. The letter of appointment and confirmation letter are intended to confirm the terms of employment and neither these letters nor any other oral or written statement are intended to be a contract or promise which binds either the College or the employee to continue the employment relationship for any period of time or which limits the right of the College or the employee to terminate the employment relationship at any time for any reason.

Policies relative to contracts for teaching faculty are stated in the Community of Educators Handbook.

1.07 TELECOMMUTING POLICY.

Messiah College considers telecommuting to be a viable alternative work arrangement in certain circumstances which, when properly implemented and administered, benefits both the College and the employee. The College defines telecommuting as "a work arrangement in which some part of the regularly scheduled work is performed at an off-campus worksite such as the home, on the road, or in an office space near home." Telecommuting is not an alternative work arrangement which is available to teaching faculty.

Telecommuting is a voluntary work alternative (unless specifically stated as a condition of employment) that may be appropriate for some employees and some jobs. It is not an entitlement; it is not a college-wide benefit; and it in no way changes the basic terms and conditions of employment with Messiah College. All College employees, including telecommuters, are subject to the College's policies and procedures.

Complete guidelines describing the availability and restrictions of telecommuting may be obtained in the Department of Human Resources.

1.08 **PROBATIONARY EMPLOYMENT PERIOD.**

The probationary employment period is a time when a supervisor evaluates the employee and the performance requirements of the position. The probationary period for all administrative and staff employees is defined as the first 90 calendar days of employment. The College may extend the probationary period as necessary for appropriate evaluation.

Employment may be terminated by the College at any time without warning prior to the end of the probationary period. If employment expectations are being met as of the end of the probationary period, employment may continue until terminated by either party in accordance with the termination policies of the College. However, successful completion of the probationary period does not confer the right to employment of any specific duration.

1.09 **PERFORMANCE APPRAISALS.**

Staff and administrative employees are formally evaluated annually by their supervisors. In addition, staff and administrative employees receive a performance review upon completion of their probationary period. The performance appraisal process is intended to provide an open discussion between the employee and supervisor regarding job responsibilities, work performance and expectations for future responsibilities and performance. The purpose of the formal appraisal is to provide employees with specific feedback regarding work quality and performance.

Information regarding the evaluation of teaching faculty is contained in the sections of the Community of Educators Handbook dealing with Faculty Evaluation and Term Tenure.

1.10 **PROMOTION AND TRANSFER POLICY AND PROCEDURES.**

Messiah College promotes or transfers administrative and staff employees into vacant positions when qualified employees are available, interested, and deemed suitable in all respects and when it is determined that the promotion or transfer is in the best interest of the department and the College. Employee eligibility for promotion and/or transfer will be determined by the requirements of the new job. In addition, to be considered, administrative employees must have held their current position for at least 12 months, and staff employees must have held their current position for at least 6 months. All employees must have a satisfactory performance record and have no disciplinary actions during the same period in order to transfer or receive a promotion.

When an employee fills a vacant position that is within the same compensation band and job classification as his/her current position, it is considered a **transfer**. A transfer is viewed as a lateral move for an employee and as such typically involves the opportunity to learn a new position, but no additional compensation. An employee may initiate a transfer by applying for a vacant position per our established application process outlined on our website:

http://www.messiah.edu/offices/hr/job_opportunities. At times, the College will initiate the transfers of employees between departments and facilities to meet specified work requirements and reassignment of work requirements. This is managed by the Division VP/Provost.

Occasionally, an employee will transfer to a job that is lower in band and job classification than the employee's current position. When this happens, the difference in positions and scope of responsibility will be reviewed with the hiring manager. An appropriate base salary will be determined based upon the new position and the employee's length of service; however, an employee cannot be guaranteed and should not assume that his/her compensation will not go down as a result of taking a lower level position.

All employees who transfer into new positions are subject to a probationary employment period during which the supervisor evaluates the employee and the performance requirements of the position. The probationary period for all administrative and staff employees is defined as the first 90 calendar days in the new position. The College may extend the probationary period as necessary for appropriate evaluation.

Employment may be terminated by the College at any time without warning prior to the end of the probationary period. If employment expectations are being met as of the end of the probationary period, employment may continue until terminated by either party in accordance with the termination policies of the College. However, successful completion of the probationary period does not confer the right to employment of any specific duration.

Promotions occur either when an employee fills a vacant higher-level position or when an employee's position is re-evaluated because of a significant increase in the position's level of required technical expertise, experience, leadership, management expertise and accountability. Promotions, unlike transfers, involve an adjustment in the employee's band and an increase in salary where funds are available and changes warrant as much. Promotions are made on the basis of the employee's suitability for higher level work and the job requirements, not seniority.

All employees who are promoted into new positions are subject to a probationary employment period during which the supervisor evaluates the employee and the performance requirements of the new position. The probationary period for all administrative and staff employees is defined as the first 90 calendar days in the new position. The College may extend the probationary period as necessary for appropriate evaluation. Successful completion of the probationary period does not confer the right to employment of any specific duration.

The College recognizes that the responsibilities and requirements of a higher-level position may not prove suitable to a particular employee as determined by the performance results of the promoted employee. In the event a promotion assignment is found unsuitable by either the employee or by the College, consideration will be given to allowing the promoted employee to return to a former or comparable position for which the employee possesses demonstrated skills, knowledge, ability, and interest. If no such position is available, the promoted employee may be subject to termination with the opportunity to be rehired at a later time.

When an employee has been selected to fill a vacant higher-level position, any salary adjustment will become effective when the employee moves into the vacant position. The hiring manager will review a compensation analysis with Human Resources to determine the appropriate salary for the position and whether the employee should also be eligible for the July COLA increase. Human Resources will communicate to the employee any salary change and the employee's subsequent status as it relates to the July COLA increase.

When a promotion involves moving an administrative or staff employee to a higher band or grade because the nature of that employee's position has changed, the responsible Director will complete a **Recommendation for Promotion** and clearly identify how the duties and responsibilities of the position will be changed permanently, materially, and significantly. An employee must meet the minimum qualifications of the band in order to be reclassified into the higher band. Human Resources and the Division VP/Provost will review the **Recommendation for Promotion** to confirm that the promotion is warranted and to determine an appropriate rate of compensation.

In the event that a Division VP/Provost wishes to implement a promotion that cannot be accommodated within the current salary budget for the division and wishes to reallocate funding from the divisional operational budget (non-salary), the VP/Provost presents a proposal for the promotion to the President for approval.

If funding from reallocating budget is not available, a recommendation for the promotion must

be submitted to President's Cabinet. Recommendations will be reviewed twice a year and may be submitted by **September 15** of each year for fall review or by **February 15** of each year for spring review. President's Cabinet will then review all such requests to determine which of the following options is most appropriate:

1. The promotion is not an institutional priority at this time and will be placed on hold.
2. The promotion is an institutional priority and the College will re-structure across divisions so as to establish appropriate funding.
3. The promotion is a priority and new money generated from across divisions will be allocated to the division's budget to establish appropriate funding.

Approved fall promotions will be made effective by December 1 of each year, and approved spring promotions will be made effective by May 1 of each year. Promotional increases and any resultant pay changes shall not be made effective retroactively.

When an employee is promoted to a band or grade with a higher minimum rate of pay, the employee will normally be awarded an increase based on years of job-specific experience, education, and specific qualifications as well as internal pay relationships. A recommendation for the increase will be developed by Human Resources and provided to the Provost or Division Vice President. All promotional increases are subject to availability of funding. The July COLA increase will be taken into consideration when reviewing the salary adjustment, and Human Resources will notify the employee if such an increase precludes participating in the July COLA increase.

1.11 OUTSIDE EMPLOYMENT. College employment shall be the principal vocation of full-time employees. However, an administrative, teaching faculty, or staff employee may engage in outside employment subject to the following conditions:

- a. Outside employment may not interfere with efficient performance of the employee's job duties and responsibilities to the College.
- b. Outside employment may not conflict with the interests and/or stated ethical standards of the College.
- c. Outside employment should not require extensive use of College facilities or equipment. The College reserves the right to limit an employee's personal use of College resources as necessary.
- d. Questions regarding application of this policy should be directed to the appropriate Vice President or Provost.
- e. Failure to abide by this policy shall be cause for disciplinary action which may include termination of employment.

1.12 POTENTIAL EMPLOYEE CONFLICT OF INTEREST. An employee of the College shall be considered to have a conflict of interest if he or she has existing or potential financial or other interests which impair or might reasonably appear to impair the employee's independent judgment in the discharge of duties to the College. The following standards shall be followed in business or contractual transactions of the College in which employees are personally involved:

There shall be full disclosure by the employee to his or her supervisor of potential conflicts of interest. It shall be the responsibility of the employee to report annually financial benefits of material amount (i.e., exceeding \$250) including any free or discounted services received by the employee as a result of his or her employment by the College.

No compensation shall be paid to College personnel or consultants on a commission basis for services in fund raising, student recruitment, or similar activities.

Personnel of the College who carry out personal cultivation of prospects or who are involved in the purchase of goods and services shall not receive material financial benefit from such activities. Fees received as executor in the administration of estates, personal gifts of goods, gift-in-kind, real estate, or cash received as a bequest or during a prospect's lifetime shall be returned as gifts to the College. This restriction shall not apply if such fees or gifts are received by a College employee from the estate of a person related to him/her by blood or marriage or from a relative during the relative's lifetime. Minor personal gifts or special consideration with a retail value of less than \$250 may be accepted in consultation with direct superiors if acceptance is determined by them not to be detrimental to the best interests of the College. At no time shall an employee of the College advance in his or her professional relationships a personal interest in conflict with the work of the institution.

Failure to abide by the conflict of interest policy shall be cause for disciplinary action which may include termination of employment. The decision of the President as to alleged conflicts of interest shall be final.

1.13 PROGRESSIVE DISCIPLINE.

Employee conduct is generally very appropriate and cooperative at Messiah College. However, in the event an employee's behavior or job performance fails to meet with expectations, the College endeavors to use a progressive discipline process whereby employees are made aware of the problem and given a reasonable opportunity to take corrective action. This disciplinary process is intended to be used in situations other than where an employee's actions are of such a serious nature as to constitute willful misconduct which warrants immediate termination. In addition, this process shall not apply to temporary or on-call employees or to employees during their probationary employment period.

Below are the guidelines for the progressive discipline process. They are established to ensure fair, consistent and equal treatment throughout the College:

Step 1 The first time a minor breach in employee behavior or performance occurs, a verbal warning to the employee is usually sufficient. The supervisor and employee need to meet in private to discuss the employee's performance/conduct and expectations for improvement. The conversation should include guidelines to follow for changing behavior or improving performance. A record that the conversation occurred should be sent to Human Resources.

Step 2 If the employee's performance/conduct continues to be unsatisfactory, the supervisor needs to schedule a second meeting to review the situation, site specific examples of problem performance/behavior and provide the employee with a written warning indicating that the employee's performance/behavior must show immediate and sustained improvement. The employee should also be given the chance to respond to statements made concerning the inappropriate behavior or poor performance. The written warning will be provided to the employee and a copy will be forwarded to Human Resources for inclusion in the employee's personnel file.

Step 3 If in spite of documented warnings, the employee fails to make the necessary changes in behavior/performance within a reasonable time period or if there is another occurrence of problem behavior, the supervisor should place the employee on probation.

Prior to placing the employee on probation, the supervisor shall meet with the Director of Human Resources to discuss the conditions which warranted the reprimands, the procedures followed to date and the format of the probation document. If deemed

appropriate, the supervisor shall then meet with the employee to review the probation with emphasis placed on the seriousness of the situation, including the fact that failure to demonstrate immediate and sustained improvement may result in termination of employment. A copy of the probation document will be provided to the employee, and a copy will be forwarded to Human Resources for inclusion in the employee's personnel file.

Step 4 At the end of the probationary period, the supervisor should meet with the employee. If the employee has demonstrated a commitment to sustained improvement, he or she should be complimented and a memo indicating successful completion of probation will be provided to the employee. A copy will be forwarded to Human Resources for inclusion in the employee's personnel file.

If the employee has not shown adequate improvement, if the terms of the probation are violated, or if a separate occurrence of inappropriate behavior occurs during probation, the employee will be subject to termination.

Before proceeding with a termination, supervisors and managers must meet with the Director of Human Resources.

1.14 **RESIGNATION.**

Administrative and staff employees who wish to resign are asked to give a minimum of two weeks advance notice. Whenever possible, more advance notice is preferable. The resignation date indicated by the employee is to be the last day physically working on campus. Resignations by staff and administrative employees shall be submitted in writing to the immediate supervisor and a completed Notice of Resignation shall be filed with the Department of Human Resources. A Payroll Change Form should be completed by the Supervisor and forwarded to the Department of Human Resources.

All property of Messiah College, including keys and identification cards, must be surrendered to the appropriate supervisor on or before the employee's last day of employment.

An Exit Interview will be scheduled for each departing employee with a representative of the Department of Human Resources.

1.15 **RESIGNATION FOR TEACHING FACULTY.** Procedures for teaching faculty resignations as well as policies relative to the termination of a teaching faculty member's employment due to non-renewal of his/her contract by the College are stated in the Community of Educators Handbook.

1.16 **TERMINATION OF TEACHING FACULTY.** Procedural policies relating to the termination of employment of teaching faculty are stated in the Community of Educators Handbook. Policy 1.18 for Willful Conduct (below) applies.

1.17 **TERMINATION POLICIES FOR ADMINISTRATIVE & STAFF EMPLOYEES.**

An involuntary termination of employment, to include layoffs due to restructuring, is a management-initiated dismissal. It is the College's policy to ensure that employee terminations are handled in a respectful manner, and where appropriate, only after the employee has failed to demonstrate improvement via the progressive discipline process.

Before any action is taken to terminate the employment of an employee, the employee's supervisor must review the situation with the Director of Human Resources and the appropriate Vice President or Provost. It is HR's responsibility to review the situation and determine if dismissal is warranted.

If HR confirms moving forward with a termination, it is the supervisor's responsibility to coordinate with HR to ensure that the termination is handled appropriately and that the terminated employee follows the exit procedures in Sections 2.2.1 and 2.2.2 of this policy. When it becomes necessary to release an employee because of budgetary limitations, program restructuring or financial or organizational reasons, the College will follow a fair and reasonable severance practice.

Termination may be for any reason, i.e., misconduct, tardiness, absenteeism, unsatisfactory performance, etc. While in some cases progressive discipline should be used to correct a behavior/performance problem and thereby avoid termination, certain types of employee misconduct are so severe that one incident of misconduct will result in immediate dismissal without prior use of progressive discipline.

1.18 **WILLFUL MISCONDUCT.**

All employees of the College are expected to refrain from willful misconduct. Examples of willful misconduct include, but are not limited to the following:

- a. Insubordination
- b. Neglect of duty
- c. Dishonesty
- d. Fighting or threats of violence
- e. Theft, attempted theft or willful destruction of College property
- f. Sabotage
- g. Falsification of payroll, employment, or other College records or information
- h. Unapproved absence of three consecutive days
- i. Harassment
- j. Using College IT equipment/infrastructure in a manner that is not in compliance with the ethical and moral standards of the College
- k. Intentional violation of the principles embodied in the "Community Covenant"
- l. Serious violation of Messiah College policies
- m. Material breach of the terms contained in one's letter of appointment, contract or employment agreement
- n. Other serious wrongdoing, including that which may harm persons or property

This list is not intended to be exhaustive, but rather to be illustrative of the sorts of serious misconduct which may subject an employee to disciplinary action, including termination of employment. All employees (including administrative, staff, instructional, and term-tenure faculty) terminated for willful misconduct are not eligible to receive severance.

- 1.19 **SUSPENSION.** In situations where immediate termination of employment may be justified due to willful misconduct, the Department Director or Department Chair with the approval of the Director of Human Resources and the appropriate Vice President or Provost may immediately suspend the employee. The Department Director or Department Chair will then assemble all documented evidence regarding the employee's alleged misconduct. This evidence will be forwarded within 24 hours of the suspension to the Director of Human Resources and the appropriate Vice President or Provost. They will meet to review the case and will render a final decision either to authorize the necessary action to terminate

employment or to reinstate the employee.

- 1.20 **TERMINATION DUE TO UNSATISFACTORY WORK PERFORMANCE.** The procedure for terminating an administrative or staff employee due to unsatisfactory work performance shall be the progressive disciplinary process.

1.21 **RETIREMENT.**

(Owner: Office of Human Resources; Updated: 22-MAR-2010)

As required by law, the College does not set a mandatory retirement age. However, for purposes of establishing eligibility for College benefits which accrue only to those with "retired" status, an employee is considered to be retired from Messiah College if he or she is at least 60 years of age and has voluntarily terminated employment after at least 10 years of full-time employment.

Employees retiring from the College may not return to work at the College—even if in a reduced capacity—for a period of no less than twelve (12) months. This required break in service would be inclusive of all employees returning in any capacity, such as adjunct faculty, part-time staff, and temporary employees.

College-administered retirement benefits shall include the following:

- a. The College will assist in arranging TIAA-CREF financial counseling.
- b. A retired employee will receive a specially-endorsed identification card which will enable the use of College recreational facilities and library, receipt of an employee discount for selected musical and cultural events, and admission to regular-season College sports events.
- c. An employee who retires prior to the age of Medicare eligibility will be allowed to continue to participate in the College's medical insurance program until he or she reaches the age of Medicare eligibility. This participation will be on the same basis (e.g. subject to the same co-pay requirements, plan availability, etc.) as that of continuing College employees.

If the employee dies the spouse remains eligible for coverage under the Colleges' medical plan until the date on which the deceased employee would have become eligible for Medicare.

- d. A retired employee will be allowed to audit a total of 4 credit hours of academic coursework per semester without charge on a space-available basis.

1.22 **POLICY PROHIBITING HARASSMENT.**

(Approved by College Council, 2/13/08)

As an expression of our Christian values, Messiah College is committed to creating an atmosphere of dignity and respect free from any harassment, sexual, racial or otherwise. It is also the College's responsibility to uphold existing laws regarding a learning, living, and working environment free from harassment based on race, religion, ethnicity, gender, national origin, age, disability, marital status, amnesty, or status as a veteran. Such harassment in any manner or form by anyone in the College community is expressly prohibited. This includes harassment of or by individuals not directly affiliated with the College, e.g. contractors, vendors, visitors. This policy also applies to harassment off-site or after normal business hours in College related settings. These include but are not limited to business trips, athletic events,

conferences, and College related social events.

Furthermore, all employees and all students are responsible for maintaining an environment free of harassment. Individuals who believe that they have been subjected to or witnessed harassment should bring the matter to their supervisors. If an individual believes it would be inappropriate to discuss the matter with a supervisor, the incident should be reported directly to the head of the Department or the Director of Human Resources. The authorization of, cover-up or participation in any act of harassment of any kind is strictly forbidden. Failure to abide by this policy shall be cause for disciplinary action which may include termination of employment.

Retaliation against an individual who complains of discriminatory harassment under this policy, is strictly prohibited. There will be no adverse action against any individual for reporting what he/she believes is an incident of harassment, or for participating in or cooperating with an investigation of an alleged incident. The College's commitment to address complaints related to harassment should not be viewed as license for individuals to engage in unfounded, frivolous or vindictive actions that are not made in "good faith." Such behavior is a violation of the intent of this policy.

Harassment violates federal and state laws, including Title VII of the Civil Rights Act of 1964, which prohibits harassment in the workplace, and Title IX of the Education Amendments of 1972, which prohibits harassment of students as a form of discrimination that denies or limits a student's ability to participate in or benefit from the College's programs.

As defined in the Equal Employment Opportunity Commission's Regulations, the following conduct constitutes harassment:

- Unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education, (2) submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting an individual.
- Inappropriate conduct that has the purpose or effect of substantially interfering with an individual's academic or work performance or is so severe and pervasive that it creates an intimidating, hostile or offensive environment.

Forms of Harassment. Harassment generally takes one of two forms: "quid pro quo" harassment, in which the harasser makes sexual favors or tolerance of unwelcome behavior a condition of the victim's success in some way; or "hostile environment" harassment, in which the overtly sexual nature or derogatory (based on one's race, religion, ethnicity, gender, age, disability, marital status, amnesty, or status as a veteran) nature of conversations, pictures, humor and/or activities taking place in an academic or work environment makes it difficult for students and employees to concentrate on their work/studies. Often, the hostile work environment means that the victim feels uncomfortable, unwelcome, intimidated, or afraid to speak or choose freely. "Hostile environment" harassment is generally less clear and overt. Unwanted, offensive and/or culturally insensitive conduct, language, or images based on one's race, religion, ethnicity, gender, age, disability, marital status, amnesty, or status as a veteran may not be directed at a specific individual; nevertheless they may create an atmosphere that is intimidating or offensive to an individual. It is important to note that harassment may take place in an academic, residential or work setting.

Intent and Effect. Harassment is unwelcome behavior that is either intended to harass or has the effect of harassing by abusing the dignity of an individual or creating an intimidating, offensive, or coercive environment. Behavior that was not intended to be harassing can be perceived as harassing.

Power. Harassment most often occurs between people of unequal power: when such a power differential exists (e.g., such as a physically larger person over a smaller one, a supervisor over a subordinate employee, a faculty member over a student), the victim is not in a position to freely object, resist, or give fully free consent. However, harassment can also occur where no formal power differential exists, if the behavior is unwanted by, or offensive to, the victim.

Educational Activities. In order to cultivate a creative learning environment, Messiah College encourages free inquiry and expression within the bounds of our Christian commitments. Members of the community have the right to hold and defend a variety of viewpoints within an educational setting. For educational purposes required readings(s), educational activities (videos, projects, discussions, etc.), music, drama or art may include historical information that portrays groups or individuals in a pejorative fashion. Educators carry responsibility for directing these activities with care and sensitivity.

Same-Sex Harassment. Both males and females are protected by law from sexual harassment. Moreover, the law prohibits sexual harassment regardless of the sex of the harasser; i.e., even if the harasser and the person being harassed are members of the same sex.

1.23 GRIEVANCE RESOLUTION.

(Approved by College Council, 2/13/08)

In foundational documents that outline the College's mission, college-wide educational objectives, foundational values, and strategic plan, the College has affirmed that reconciliation across lines of racial and cultural division as well as behavior respectful of gender is central to our identity as a Christian institution. We seek to create a welcoming community which is characterized by the Biblical vision for justice, respect, inclusiveness, diversity, and shalom. Therefore, Messiah College deplores all incidents of harassment, intimidation and discrimination. Any act of harassment, intimidation or discrimination, whether it be committed intentionally or unintentionally, by employees of the College or students, is contrary to the ideals of Christian ethics, Christian community, and our educational mission.

This means that the College will respond promptly and firmly to reported incidents in ways that are educational and redemptive and that encourage both personal responsibility and reconciliation within the community.

Once made aware of a grievance, Messiah College is committed to commence an appropriate investigation of the allegations. As such, a grievance procedure has been established for the benefit and use of all.

1.23.01 Informal Resolution Process.

Since many complaints and disputes can be settled in conversation between the people involved, employees are encouraged to begin the resolution process by speaking with their immediate supervisors. Supervisors are expected to facilitate an earnest effort to resolve these issues as promptly as possible.

- a. If an individual considers it to be more appropriate, a conversation may be scheduled with the department head, the division Vice President, the Provost or with Human Resources instead of the supervisor.
- b. If a supervisor or manager becomes aware that harassment or discrimination is occurring, either from personal observation or as a result of an individual coming forward, the supervisor or manager should immediately report it to the HR Director.

In both cases, the Director of Human Resources will consult with appropriate resources related to the situation such as the Associate Dean for Multi Cultural Programs & Special Assistant to the Provost for Diversity (ADMPSAPD), a representative of the Gender Concerns Committee, and/or the Director of Disability Services. This process typically leads to an informal resolution (such as a meeting to make the offending party aware of the impact of his/her actions and seek an appropriate resolution) and notes related to the situation and the resolution are maintained in Human Resources.

1.23.02 Formal Resolution Process - Second Step for Unresolved Issues or First Step for Egregious Issues.

If the problem is not resolved by the process above or if a situation is egregious, an individual who feels harassed, discriminated, or retaliated against may initiate the formal complaint process by filing a complaint with the HR Director and providing sufficient details so as to allow the HR Director to determine if the harassment policies may have been violated.

- c. The complainant needs to provide a grievance statement, background information, and the requested resolution.
 - d. Discretion. The investigation may include interviewing individuals other than the complainant and the respondent. Discretion in how information is handled is paramount throughout the process. Every reasonable effort will be made to protect the privacy of all parties. However, strict confidentiality cannot be guaranteed due to the necessity for investigation and fact-finding. Beyond that, any individual who wrongfully discusses or discloses confidential information will be subject to disciplinary action.
 - e. Cooperation. Should any individual refuse or fail to cooperate fully with an investigation, he or she may be subject to disciplinary action, which may include suspension or termination of employment.
2. The Director of Human Resources is responsible for reviewing the situation and will partner with specific resources such as the ADMPSAP, Gender Concerns representatives, or the Director of Disability Services in determining if an investigation is warranted.
 3. If warranted, Human Resources is responsible for the following:
 - a. establishing an appropriate timeline for processing the grievance
 - b. reviewing the anticipated schedule and interview agenda with the resource representative(s)
 - c. organizing and implementing an appropriate investigation
Please note: Those who conduct the investigation should be without a conflict of interest and anyone with a conflict of interest will be removed from the investigation.
 - d. meeting with both parties, including providing the respondent (the person(s) charged) with a copy of the complaint
 - e. interviewing persons believed to have relevant information
 - f. reviewing findings with the appropriate VP/Provost and resource representative
 - g. rendering a written decision and resolution recommendation
 - h. closing and retaining the investigation file
 4. During this process, HR will advise both the complainant and the respondent that they

may request to have a colleague present for support. No party or participant in the grievance process shall be accompanied by legal counsel at any meeting held for the purpose of resolving the grievance.

5. The final written decision by the Director of Human Resources will reflect either a determination that the allegations were unwarranted or the terms of the prescribed resolution including any disciplinary action deemed appropriate. The appropriate action will depend on the following factors: (i) The severity, frequency and pervasiveness of the conduct; (ii) Prior complaints made by the complainant; (iii) Prior complaints made against the respondent; (iv) The quality of the evidence (first hand knowledge, credible corroboration etc.). If the investigation is inconclusive or it is determined that there has been no harassment or discrimination in violation of this Policy, but some potentially problematic conduct is revealed, preventative action may be taken.
6. Copies of the decision will be shared with both parties as well as both parties' supervisors and the appropriate VP or School Dean.
7. If either the complainant or the respondent is not satisfied with the decision and wishes to pursue the matter further, he/she may prepare a written summary of the concerns and request that the Grievance Review Board review the matter. This request should be made through the Director of Human Resources who will convene a special session of the Grievance Review Board. The Grievance Review Board will be appointed by the President. Typically seven (7) members will serve at a hearing. Membership includes the following:
 1. Two members of the COE (only one required to serve at any given session)
 2. Two members of the staff (only one required to serve at any given session)
 3. One member of the President's Cabinet
 4. The HR Director as an advisor, but not a voting member
 5. and at least one additional College official as deemed appropriate for the situation. Specifically, the following additions to the committee would be required:
 - a. For complaints related to race and ethnicity, the Associate Dean of Multicultural Programs/Special Assistant to the Provost for Diversity Affairs, and two additional members of MICA as appointed by the chair, would participate.
 - b. For complaints related to gender, a member from the Gender Concerns Committee would participate.
 - c. For complaints related to disability, the Director of Disability Services would participate.
 - d. In the event that the grievance is against a member of the Grievance Board or in any way connected to a member of the Grievance Board (spousal relationship, mentor relationship, etc.), an alternate Board member shall stand in replacement of the Board member with a conflict of interest.
 - e. In the event a complaint involves a student or a student-employee, a student will be named to the Grievance Board.
8. The Grievance Board, after a full review of the facts (which may include a review of the written summary of the problem, interviews with the people involved, and further investigation if necessary), will inform the individuals involved of its decision and any recommendations. The decision of the Grievance Board will be final.
9. The final written decision by the Grievance Board will reflect either a determination

that the allegations were unwarranted or the terms of the prescribed resolution including any disciplinary action deemed appropriate. The appropriate action will depend on the following factors: (i) The severity, frequency and pervasiveness of the conduct; (ii) Prior complaints made by the complainant; (iii) Prior complaints made against the respondent; (iv) The quality of the evidence (first hand knowledge, credible corroboration etc.). If the investigation is inconclusive or it is determined that there has been no harassment or discrimination in violation of this Policy, but some potentially problematic conduct is revealed, preventative action may be taken.

10. Copies of the decision will be shared with both parties as well as both parties' supervisors and the appropriate VP or School Dean.
11. The Grievance Board will prepare an annual report for College Council outlining the situations addressed, actions taken, and status of any disposition related to the situation.

- 1.24 **MARRIAGE AND DIVORCE.** The College affirms that God intends marriage to be a life union and that this exclusive, permanent commitment is given as a model of the relationship between Christ and the Church. It is clear from Scripture that it is incumbent upon all who are married to take seriously the vows to which they have committed themselves. When the College hires married individuals, it seeks to employ persons with healthy marriages and sound attitudes toward marriage because it affirms that marriage is meant to be an exclusive, permanent life union.

The College recognizes, however, that difficulties can arise in a marriage relationship, even to the point of contemplated separation or divorce. Because the College strives to promote an atmosphere that is conducive to the maintenance of healthy marriages and family life, it will work to support individuals facing such struggles. If serious difficulties arise in the marriage of any employee, he/she is encouraged to contact the College Pastor for the purpose of obtaining information about available professional counseling resources or other professional services. Some professional counseling is available on campus. Referrals may also be arranged off campus.

The College anticipates that a couple experiencing serious marital difficulties will seek joint professional counseling and exhaust every reasonable means toward reconciliation before considering separation or divorce. If the employee's spouse refuses to pursue counseling, the employee is encouraged to pursue individual counseling. Because the College also recognizes the employee's accountability to the local church, employees are also encouraged to seek support within the church community.

- 1.25 **AMOROUS RELATIONSHIPS.** Amorous relationships between employees and students are generally discouraged given the tendency for such relationships to be asymmetric in nature. Therefore, it is the College's position that no employee shall engage in an amorous relationship with a student over whom the employee has any power of evaluation or advisement. An exception to this policy shall be with respect to an existing amorous relationship which predates an employee's or student's affiliation with the College.

When the Director of Human Resources is informed of a failure to abide by this policy, such failure will be cause for disciplinary action which may include termination of employment.

- 1.26 **NEPOTISM.** The College recognizes the sensitive nature of having family members employed by the same employer. In situations where an employee/relative can directly influence another employee/relative's career, pay, or employment status, careful measures must be taken by the College to avoid situations where the possibility of favoritism or conflicts of interest might exist.

For the purposes of this policy, "relative" means spouse, mother and father, step-mother and father, mother- and father-in-law, sons and daughters, brothers and sisters, step-brothers and sisters, sons- and daughters-in-law, brothers- and sisters-in-law, aunts and uncles, nieces and

nephews, first cousins, grandparents or grandchildren.

Any relative hired by the College must meet all selection standards, fulfill all job qualifications and requirements, and be consistent with equal opportunity policies and practices. All employment decisions involving the possibility of nepotism are to be reviewed and approved by the appropriate Vice President or Provost, together with the Director of Human Resources, prior to any offer of employment. The appropriate Vice President or Provost shall take steps to assure that a relative within a department or within the faculty as a whole do not influence other's hiring, evaluation or employment status.

This policy applies to new hires and employees who are eligible for transfer or promotion.

- 1.27 **CONFIDENTIALITY.** In the normal course of business, many College employees will have occasion to maintain or come in contact with confidential records relative to applicants, students, parents, donors, other employees, vendors, etc. Employees are expected to practice discretion and care in discussing confidential matters and must observe confidentiality standards specific to information maintained within the employee's work area. Employees are prohibited from disclosing confidential information to other employees or students except for those employees who have a legitimate need-to-know. Any willful or intentional disclosure of confidential information to unauthorized persons will be considered a sufficient cause for discipline including possible termination of employment.
- 1.28 **EMPLOYEE ALCOHOL USAGE POLICY.** Messiah College prohibits the possession or consumption of alcohol by employees on property owned or controlled by the College with the exception of personal residences not used for student housing. Employees are prohibited from consuming alcohol with students or furnishing alcohol to students. Employees are expected to exercise professional discretion and judgment as to use of alcohol when on College business or in other business or social settings.
- 1.29 **TOBACCO-FREE WORKPLACE.** Messiah College is dedicated to providing a healthy, comfortable and productive work environment for our employees. It is a tobacco-free environment. Smoking and the use of tobacco in any form is, therefore, prohibited in, on, or about all College-owned or leased buildings, grounds and property and College vehicles, whether or not on campus. In addition, those individuals who are issued College uniforms shall refrain from the use of tobacco products while wearing these uniforms.

The College will strongly encourage visitors and contractors to comply with the **Tobacco-Free Workplace** policy.

All employees share in the responsibility for adhering to and enforcing the policy. Any problems should be brought to the attention of the appropriate supervisor and handled through the normal chain of command. Employees who violate this policy will be subject to the same disciplinary actions that accompany infractions of other College rules, which disciplinary actions may include termination of employment.

- 1.30 **DRUG-FREE WORKPLACE.**

(revised May 2006 by Legal Counsel)

In compliance with the Drug-Free Schools and Campuses Act, Messiah College is committed to maintaining a healthy work environment. Accordingly, the College prohibits the manufacture, possession, use or distribution of illegal drugs by all employees.

Messiah College prohibits the possession or consumption of alcohol by employees as stated in its Employee Alcohol Usage Policy (Section 1.30 above).

The health risks associated with the use of illegal drugs and the abuse of alcohol are

significant. The College desires and is prepared to help employees who have a drug or alcohol related problem. Employees seeking assistance will be provided with access to substance abuse programs, community resources for assessment and treatment, and counseling.

Sanctions for violation of this policy may range from written reprimand to termination of employment, although counseling or treatment may first be directed. The College may also involve local law enforcement officials when appropriate.

A complete statement of the College's policy is distributed annually to all Messiah College students and employees.

- 1.31 **WEAPON-FREE WORKPLACE.** To ensure that Messiah College maintains a workplace safe and free of violence for all employees, the College prohibits the possession or use of weapons on College property. A license to carry the weapon does not supersede the College policy. Any employee in violation of this policy will be subject to prompt disciplinary action, up to and including termination. All members of the community are subject to this provision, including contract and temporary employees, and visitors on College Property.

“College Property” is defined as all college-owned or leased buildings and surrounding areas such as sidewalks, walkways, driveways and parking lots under the college’s ownership or control. This policy applies to all vehicles that come onto college property.

Weapons include, but are not limited to, firearms, explosives, knives, pellet or BB guns, tasers, stun guns, wooden or metal batons, bows and arrows (sharpened or hunting tips) and other weapons that might be considered dangerous or that could cause harm. In addition, sports equipment derived from or similar to weapons such as baseball bats, fencing swords, bows & arrows, javelins, paint ball guns should be confined to sports facilities for their use or kept locked in a personal vehicle.

Messiah College reserves the right at any time to contact law enforcement authorities if there are reasonable grounds to believe that an employee or a visitor has a weapon on College property.

- 1.32 **ABSENCE FROM WORK.** All employees are expected to maintain consistent and reliable attendance. Administrative and staff employees who find it necessary to be absent due to illness or urgent personal circumstances are required to notify their immediate supervisor or his/her designee prior to their scheduled work time. Employees who are absent in excess of three consecutive days or who have frequent absences may be required to present a doctor's excuse for the dates in question. Excessive absenteeism may be subject to disciplinary action.

Absences in excess of five working days, whether for illness or injury of employee, the employee's dependent child, spouse or parent, must be reported to the Department of Human Resources. The absence will be evaluated in light of the College's Short Term Disability Policy and the Family Medical Leave Policy. This applies to all College employees.

Teaching faculty members should follow procedures described in the Community of Educators Handbook.

- 1.33 **JURY DUTY.**

Employees who are required to serve as jury members must present a court voucher to their supervisors. The employee will continue to be paid the normal straight-time hours for those regularly-scheduled hours missed due to jury duty. Jury duty time will be included in the weekly overtime calculation for hourly employees. Monies earned from the court for jury duty pay--both wages and mileage reimbursement--may be kept by the employee.

The College does not pay for time off due to jury duty for temporary/occasional or student

employees.

- 1.34 **SUBPOENA.** Paid time off for court appearances will be granted when an employee is required to appear in court as a witness, but is not a party to the action. The employee must furnish verification of the subpoena or summons prior to his or her appearance.

Once excused by the court, employees are expected to report to work in accordance with their regular work day.

Employees appearing in court on their own behalf must use either personal leave without pay or vacation.

- 1.35 **USE OF COLLEGE EQUIPMENT AND FACILITIES.** The College prohibits the borrowing of College-owned equipment or materials for personal use. Exceptions to this policy will be made only in emergency situations or on compassionate grounds with prior written approval. Employees are instructed to fill out a "College Property Use Form" available through the Department of Safety. The borrower is responsible to obtain all the required signatures. The borrower also assumes the responsibility for injury to themselves or others and/or damage to the equipment.

Outside employment undertaken by College employees should not require extensive use of College facilities or equipment. The College reserves the right to limit an employee's personal use of College resources as necessary.

Employees found in violation of this policy may be subject to disciplinary action and/or termination of employment.

- 1.36 **INTELLECTUAL PROPERTY.**

(Approved by College Council, 11/19/2009)

- 1.36.01 **Purpose/Goal Statement.** Messiah College seeks to foster the creation of original works by its faculty, staff, and students, both individually and in cooperation with internal and external partners, and will provide a supportive climate to that effort. The goal of this policy is to promote an academic environment in which creative efforts are encouraged and rewarded, while retaining for the College reasonable ownership rights in, access to, and use of the intellectual property for whose creation the College has contracted or provided substantial assistance. This policy is intended to delineate the ownership rights of such original works, including those that are protected under applicable United States patent and copyright law.
- 1.36.02 **Applicability.** This policy applies to all intellectual property currently in process or hereafter created with the facilities and/or resources of Messiah College. Further, it applies to intellectual property created by any person (faculty, staff, administration) employed in any capacity by Messiah College, and any student who creates work on behalf of the College, unless a written agreement exists to the contrary. In the event the created work is funded in part or in whole by a federal grant, contract, or cooperative agreement, relevant governmental regulations regarding property rights will apply.
- 1.36.03 **Definitions.**
1. **Compensation:** Compensation includes direct and indirect compensation, whether lump sum or continuing royalties. Net compensation is compensation less all expenses incurred in developing or protecting the intellectual property, including but not limited to attorney fees and costs for filing and prosecuting a patent application.
 2. **Creator:** "Creator" means any person who originates intellectual property as defined below. Creators may include faculty, administrators, staff, or students of Messiah

College, whether working with other College employees or outside third parties, such as federal or state agencies, corporations, or non-profit agencies, and may include independent contractors or consultants who create intellectual property on behalf of the College.

3. **Intellectual Property:** "Intellectual property" includes both tangible and intangible property and comprises ideas, inventions, processes, discoveries, unique materials, works or authorship, and other creative or artistic works. In general, intellectual property is created when something new has been conceived and developed or when a non-obvious result, which can be applied to some useful purpose, has been discovered using existing knowledge. Owners and holders of intellectual property rights are protected by law (e.g., patents, copyrights, trademarks, and trade secrets) against infringement or unauthorized use by another. Intellectual property includes the following categories:

- a. **Copyrights:** Federal law defines the term "copyright" as that bundle of rights that protect original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. "Works of authorship" include, but are not limited to, the following: literary works; musical works, including any accompanying words; dramatic works, including any accompanying music; pantomimes and choreographic works; pictorial, graphic, and sculptural works (photographs, prints, diagrams, models, and technical drawings); motion pictures and other audiovisual works; sound recordings; architectural works; and computer software. "Tangible media" include, but are not limited to, books, periodicals, manuscripts, audio recordings, films, tapes, and disks.

Copyright protection exists as soon as the created work has been "fixed in a tangible means of expression." No copyright notice or registration is needed to obtain copyright protection. Copyright protection provides the owner with the exclusive right to reproduce the copyrighted work, prepare new versions (derivative works), publicly distribute the copyrighted work, perform the copyrighted work publicly, and display the work publicly.

A work that was created (fixed in tangible form for the first time) on or after January 1, 1978, is automatically protected from the moment of its creation and is ordinarily given a term enduring for the author's life plus an additional 70 years after the author's death. For works made for hire, the duration of copyright will be 95 years from publication or 120 years from creation, whichever is shorter.

- b. **Distance Learning Courseware:** Distance learning courseware means any software, textual, or visual materials that are packaged together for delivery as a course in which a fee is charged in exchange for credit and where the instructor and students are not necessarily in each other's physical presence for the delivery of the course. There is no limitation on the location of the materials, e.g., on CD or on the World Wide Web, and the credit earned may be for continuing education, for employee advancement, or for credit at an educational institution.
- c. **Patents:** A "patent" for an invention is the grant by the United States Patent and Trademark Office of a property right to the inventor. Generally, the term of a new patent is 20 years from the date on which the application for the patent is filed in the United States. U.S. patent grants are effective only within the United States, U.S. territories, and U.S. possessions.

The right conferred by the patent grant is "the right to exclude others from making, using, offering for sale, or selling" the invention in the United States or "importing" the invention into the United States. What is granted is not the right to make, use, offer for sale, sell or import, but the right to exclude others

from making, using, offering for sale, selling or importing the invention. Once a patent is issued, the patentee must enforce the patent without aid of the USPTO.

Any person who “invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent.” These classes of subject matter taken together include practically everything that is made by man and the processes for making the products.

A patent cannot be obtained upon a mere idea or suggestion. A complete description of the actual machine or other subject matter for which a patent is sought is required.

- d. **Trademarks:** A “trademark” is a word, phrase, symbol, or design that identifies and distinguishes the source of the goods of one party from those of others.
- e. **Trade Secrets:** A “trade secret” is any formula, pattern, device, process, tool, mechanism, compound, etc., of value to its creator, which is not protected by a patent and is not known or accessible to others. As long as it is kept secret, the owner may obtain a great deal of commercial benefit. However, trade secrets do not have the same level of legal protection as patents and copyrights.

1.36.04 **Ownership Rights.**

Principles governing ownership of all intellectual property created by Messiah College faculty, administrators, staff, and students are specified in this section. Ownership is the critical issue for the dissemination of intellectual property and the distribution of rewards relating to its creation. The application of these principles shall be consistent with the use of Messiah College resources, shall always protect its legal status as a nonprofit institution, and shall never violate any laws of the United States or the Commonwealth of Pennsylvania.

1.36.04.01 Traditional Academic Rights.

a. **Faculty Rights**

All faculty members retain intellectual property rights to instructional materials and scholarly works created at their own initiative with customary College resources, except insofar as the faculty member may voluntarily choose to transfer such rights. “Customary College resources” are those resources commonly provided or made available to faculty. They include, for example, ordinary use of resources such as the library, one's office, laboratories, general computational facilities or equipment, secretarial and administrative support staff, and supplies.

Examples of faculty-owned works created at faculty members' own initiative with customary College resources may include lecture notes, transparencies, case examples, textbooks, interactive textbooks, other works of nonfiction or novels, software, electronic course materials developed to enhance instruction in traditional classes, CD-ROMs, articles, books, literary works, poems, musical compositions, dramatic works, visual works of art, motion pictures and other similar audio-visual work, sound recordings, and other creations regardless of the media in which the works are produced or the forms of dissemination (e.g., print or electronic), novel creations, processes, or isolates of scientific research (including creation of novel genetic constructs (i.e. plasmids or recombinant products), strains (through genetic recombinant or traditional breeding means), cell lines, mutant isolates, and materials and substances and the processes by which they were made).

Faculty members are required to prepare syllabi, assignments, tests, and other instructional materials and courseware for use in classroom instruction as a function of their employment contracts with Messiah College. No additional royalty or other remuneration is owed by Messiah College for the creation of these materials. These materials remain the property of the faculty author. However, the College shall have a non-exclusive, royalty-free, perpetual license to use the work for non-profit internal instructional, educational, and administrative purposes as long as such use does not significantly diminish compensation that the creator would receive from sales. In all such uses, however, the original authors must be explicitly credited along with the dates of creation, insofar as the original authors and dates are known. Creators have the right to have their name removed from such material upon request. A faculty member or any other employee will retain exclusive rights to any audio visual recordings of the employee, unless agreed upon otherwise.

Faculty members are encouraged to share their instructional materials and courseware with their Messiah College colleagues for internal instructional, educational, and administrative purposes. When publishing scholarly works, faculty creators are encouraged to provide rights for use for the College community.

b. Student Rights

A student retains exclusive intellectual property rights to any work she/he creates with the following exceptions:

1. If a student is employed by the College to produce a specific work (e.g. artwork or software), rights to the work belong to the College unless specifically agreed otherwise.
2. If a student participates in an ongoing research project initiated by the College or an employee, the College and/or employee have exclusive rights to the specific project and products of such research (including any novel creations, discoveries, processes, or isolates). This principle shall apply even if that ongoing project or closely-related work occurs apart from the College (e.g. at another institution or corporation). Working in an ongoing project typically requires significant collaborations with the persons leading the project and other students involved in the project. Consequently, it becomes practically impossible to assign ownership to contributions of any student or group of students. In some cases, specific work or product can reasonably be considered the product of a particular individual or group of individuals. Upon request, Messiah College will allow royalty-free use, development, and marketing of that product by the students as long as such pursuits do not conflict with the purpose of the ongoing project or stated purposes of the College.
3. If a faculty member significantly exceeds his/her normal employment responsibility in helping the student produce the work in question, the apportionment of rights to such collaborative work is the responsibility of the faculty member to negotiate with the student.

In all cases, Messiah College shall have a non-exclusive, royalty-free, perpetual license to use the work for internal instructional, educational, and administrative purposes.

Student, faculty member, and College representative claimants must mutually agree to the apportionment of shared rights or submit the apportionment to arbitration (see Section 8). Final shared rights agreements must comply with apportionment guidelines provided in Section 6.4 and be based on which party processes, promotes, and markets the intellectual property.

Other Employee Rights. Other employees not covered in Section 4.1, including but not limited to staff and administrative employees, own intellectual property when it is unrelated to the employee's job responsibilities (not within the scope of their employment) and the employee made no more than incidental use of College resources in its creation or by agreement with the College that the project has been released to the creator.

Works related to an employee's job responsibilities (within the scope of their employment) that make significant use of College funds, resources, or facilities, even if he or she is not specifically requested to create them, will belong to the College. A copyright work is related to job responsibilities if it is the kind of work an employee is employed to do and the work is done, at least in part, for use at work by the creator, other employees, the College, or clients of the College.

Works that are unrelated to job responsibilities remain the property of the employee and are covered in Section 4.8. If an ownership question exists in the mind of the creator about a potential project or work, it may be best to pursue an independent project agreement (Section 4.8) or an individual project agreement (Section 4.6) prior to the creation of the work.

1.36.04.03 Work-for-Hire.

Materials written, created, produced or otherwise generated "for hire" are defined as inventions, creations, manuscripts, or other works or things of commercial value which are created by persons, including but not limited to faculty, staff, and administrative employees, who are engaged by the College specifically to create such materials or are released from other College responsibilities in order to create materials at the initiative of the College.

Works for hire shall include intellectual property created as a specific requirement of employment or as an assigned College duty that may be included in a written job description or an employment agreement. For example, computer software developed by an ITS employee for departmental or campus-wide use is owned by Messiah College.

Works for hire are the exclusive property of the College unless otherwise agreed or stated to the contrary in this policy.

Faculty-created instructional materials or courseware developed to supplement course instruction (Section 4.1.a. above) are not regarded as works for hire. Thus, the College does not claim ownership of such work merely because it requires faculty members to teach courses as part of their regular responsibilities. The College shall have a non-exclusive, royalty-free, perpetual license to use the work for non-profit internal instructional, educational, and administrative purposes. Similarly, the College does not claim ownership of faculty-initiated scholarly works based merely on general expectations that faculty members will publish such works.

The College may claim exclusive ownership of instructional materials or courseware, including online course materials, when the College has specifically contracted for the development of such materials and compensated faculty-creators (e.g., with additional financial compensation, release time, etc.) for such work. Online courses are those offered by the College by electronic means (satellite, streaming video, Web-based text, CD-ROM, etc.) for distribution to students on or off campus. In the event the creator leaves the employment of Messiah College for any reason, the College shall retain a non-exclusive, royalty-free, perpetual license to use the work for non-profit instructional, educational, and administrative purposes, and the creator shall retain all other rights.

1.36.04.04 Joint Works. The College may assert co-ownership of intellectual property with the individual creator if the creator has made extraordinary use of College resources in the creation of the work.

“Extraordinary use” includes utilization of College laboratories or special instrumentation outside of the expected use deriving from regular teaching and professional activities; dedicated assistance by College employees; special financial assistance beyond sabbatical leaves, faculty development grants or monies obtained through other ordinary competitive processes; or extensive use of shared facilities.

If the College determines that intellectual property has been created through extraordinary use of its resources, it may reasonably request reimbursement for any unusual financial or technical support, possibly in the form of compensation from future royalties. The College will consider whether an assertion of co-ownership of the copyright or patent has a detrimental impact on the free inquiry of faculty, staff or students before making such assertion. The College may also decide to modify or forego its rights to such works. Any agreement between the College and the individual creator must be in writing.

The individual creator shall retain the right to take credit for creative contribution to the work, to reproduce the work for his or her instructional purposes, and to incorporate the work in future scholarly works produced by the creator.

- 1.36.04.05 **Sponsored Project Agreements.** The College may enter Sponsored Project Agreements including contracts and grants between the College and external sponsors such as corporations, government agencies or foundations. The ownership of intellectual property created as a result of specific sponsored projects shall be subject to the terms of these agreements. Any College employee working on a project under such an agreement shall be notified in advance of the terms of ownership in the agreement for any intellectual property they may create while working on the project.
- 1.36.04.06 **Individual Project Agreements.** The College may enter agreements with individual members of the faculty, administration, staff, or students with respect to specific projects. The ownership of intellectual property created as a result of such an agreement shall be subject to the negotiated terms of the agreement.
- 1.36.04.07 **Consulting Agreements.** The ownership of intellectual property created by Messiah College faculty, staff, or administrators who are consulting with external entities (corporations, businesses, government agencies, foundations, etc.) without making significant use of College funds, resources, facilities, or time is determined by the terms of the consulting agreement.
- 1.36.04.08 **Independent Projects.** Any intellectual property created by a College employee that is not part of its creator’s employment responsibilities and that is developed on his/her own time without making significant use of College funds, resources, or facilities shall be owned by the creator.
- 1.36.05 **Disclosure and Procedural Requirements.**

The creator of any intellectual property that is or might be owned by the College under this policy is required to make prompt written disclosure of the work to the Provost, and to execute any documents deemed necessary to perfect legal rights in the College and to enable the College to file patent applications and applications for copyright registration when appropriate. The Provost will acknowledge receipt of the disclosure and will determine on a timely basis if the College wishes to assert a claim of co-ownership.

Messiah College reserves the right to pursue, or not pursue, any available legal protection for intellectual property disclosed to it under this policy for which it has ownership rights. If Messiah College chooses to pursue legal protection, it will bear all costs associated with doing so. If Messiah College chooses not to pursue legal protection, it may, in its discretion, release its rights to the creator. Likewise, if Messiah College has not initiated legal protection within two months after disclosure of a created work to the College, the College will permit the creator to seek such protection. In this case, the creator will be assigned ownership of the intellectual property and bear all costs associated with obtaining legal protection.

No one may use the College's name, logo or word mark for any private or commercial purpose, including marketing and promotion, without the written permission of the Director of Print and Web Communication.

1.36.06 **Distribution of Revenues.** All revenues derived from College-owned intellectual property or creative works will be received and administered by the Office of the Provost. For each specific piece of intellectual property owned by the College, costs incurred in the process of perfecting, transferring, and protecting College rights to the property paid by the College will first be deducted from the gross income available before distribution. An accurate accounting of all such costs shall be made available to the creator upon request. The distribution of net proceeds (income less all costs including legal protection, promotion, marketing, or patent administration services) that is received from College-owned intellectual properties shall be shared equally between the creator and the College unless there has been a prior agreement to do otherwise. The College and/or creator may, in appropriate circumstances, take equity positions in companies licensed to market or use intellectual property.

1.36.07 **Administration of Policy.** The Provost of Messiah College has the legal authority on behalf of Messiah College to oversee administration of this policy, including clarification of requirements of the policy, revisions to the policy, evaluation of patentability or other forms of protection, filing of patents and copyright applications, licensing activities, and execution of legal contracts or agreements as necessitated by the terms of this policy.

1.36\08 **Dispute Resolution.**

Either the creator of the intellectual property or Messiah College can initiate arbitration of a disagreement regarding intellectual property rights. A request must be written and submitted to the Provost, who must schedule a meeting of all parties within 30 days to seek resolution to the dispute. Any dispute that cannot be settled through informal discussion shall be submitted to the Intellectual Property Review Board (IPRB).

The IPRB will consist of the Provost (chair); Dean of the School of the faculty member/student or the Vice President or division head for any other employee; Chair of the Community of Educators; two ranked faculty members selected by the Ranked Faculty Affairs Committee; and the Vice President for Finance. The IPRB may elect to conduct a hearing into the matter and/or make a decision based upon a written record, provided that all parties to the dispute are given an opportunity to present evidence and arguments in support of their respective positions. Each party shall provide the other party with a copy of any written materials submitted to the IPRB simultaneously with submission of such materials to the IPRB. Any hearing will be conducted following the procedures set forth by the IPRB or promulgated by the Provost. If the dispute involves a student, he/she may be assisted by an advisor of his or her choice who is a member of the College community. The advisor may attend the hearing, but may not speak or otherwise participate in the hearing. Because this is a College governance procedure and not a legal proceeding, attorneys may not serve as advisors. The IPRB will decide the question presented. The decision of the IPRB is final.

1.37 **WHISTLEBLOWER POLICY.**

(Approved by College Counsel: 09-SEP-2010)

(Owner: Office of Human Resources; Updated: 22-SEP-2010)

1.37.01 **Section 1: Policy Statement.**

- a. The College has a responsibility to investigate allegations of improper activities and to report actions taken in response to such allegations.
- b. All members of the Messiah College community are encouraged to report improper activities. Any person who makes such a report is deemed a whistleblower and shall

be granted certain rights and protections as defined in the Policy.

1.37.02 **Section 2: Definitions.**

- a. A **Whistleblower** is defined as an employee of Messiah College who reports what he or she believes to be an improper activity or potential improper activity.
- b. **Improper Activities** include fraudulent or dishonest conduct or violations of law occurring at or related to work at Messiah College.
- c. **Fraudulent or dishonest conduct** is defined as a deliberate act, or failure to act, with the intent to obtain unauthorized benefit from the College. Examples of such conduct include, but are not limited to:
 - i. Forgery or alteration of any documents
 - ii. Unauthorized alteration or manipulation of electronic files
 - iii. Fraudulent financial reporting
 - iv. Pursuit of a benefit or advantage in violation of the College's Conflict of Interest Policy
 - v. Misappropriation or misuse of College resources, including cash and investments, supplies, and other tangible assets.
 - vi. Authorization or receipt of compensation for services not received or not performed or hours not worked

1.37.03 **Section 3: Whistleblower Protections.**

- a. It is unlawful for any employer to "discharge, threaten, discriminate, or otherwise discriminate or retaliate" against employees in terms of compensation or in terms of condition of employment because the employee has made, or is about to make, a good faith report to the employer or to an "appropriate authority" about an instance of "wrongdoing or waste". Likewise, it is unlawful for an employer to discriminate or retaliate against an employee because he or she has been requested by an appropriate authority to participate in an investigation, hearing, or inquiry regarding the employer's alleged wrongdoing or waste.
- b. Insofar as possible, the identity of the whistleblower will remain confidential. However the whistleblower's identity may have to be disclosed in order to conduct a thorough investigation, ensure compliance with the law, or provide the accused individuals with their legal rights of defense.
- c. Any whistleblower who believes that he/she is being retaliated against should contact the Director of Human Resources immediately.
- d. The right of a whistleblower for protection against retaliation does not include immunity from investigation of alleged wrongdoing by the whistleblower.
- e. Any whistleblower who knowingly furnishes false allegations may be subject to disciplinary actions.

1.37.04 **Section 4: Whistleblower Procedures.**

- a. Any employee who reasonably believes that an improper activity may have occurred must immediately inform his or her supervisor. If the employee suspects that his or her supervisor committed the improper activity, then he or she must immediately inform the supervisor's superior. If the employee feels uncomfortable reporting any

activity to his or her supervisors, or if the activity involves the President, he or she may report the improper activity to the Director of Human Resources, or to the College's legal counsel. The whistleblower is not responsible for investigating the activity or for determining fault or corrective measures.

- b. All supervisors should carefully handle allegations of improper activities in order to avoid:
 - i. Premature notice to persons suspected of improper activities and/or disclosure of such suspected conduct to others not involved in the investigation
 - ii. Violations of whistleblower protections
 - iii. Baseless allegations
- c. A supervisor who is informed of suspected improper activities should notify his or her direct supervisor, dean, area vice president, Human Resources Department, or the College's legal counsel. They should not contact the suspected person nor discuss the matter with any other person other than in the course of the official investigation and resolution thereof.
- d. Once the vice president or dean is aware of any suspected improper activities, he or she should contact Human Resources or the College's legal counsel for assistance with assessing the allegations to determine if they have merit, conducting an investigation to reach a conclusion on whether the improper activity occurred, and taking appropriate actions. Individuals involved in the investigation and resolution process may consult with appropriate persons, but should not disclose suspected conduct to those not involved in the investigation or those who do not have a need to know.
- e. The College's legal counsel and Director of Human Resources will serve as a resource throughout the investigation and handling of the matter. The vice president/dean will prepare a report summarizing the suspected improper activity, the investigation, the conclusion, and the actions taken, and Human Resources will retain such record for the purpose of documenting resolution of reported alleged improper activity.
- f. Parties without a direct supervisor such as College guests or vendors should report concerns to the Department of Safety. The Department of Safety will be responsible for coordinating a response with appropriate parties. If the concern is related to the Department of Safety, the concern should be reported to the Director of Human Resources.
- g. Reports of alleged improper activity and the results of investigations of the allegations shall be retained by the Director of Human Resources. A summary will be provided annually to the Audit Committee of the Board of Trustees.

1.37.05 **Section 5: Policy Questions and Maintenance.**

- a. Employees with any questions regarding the Policy should contact the Director of Human Resources.
- b. The Human Resources Office will educate all employees on this policy. Required educational activities include presentation of the policy in new employees' orientation and management training activities, and providing access to the policy on the College's website.
- c. Human Resources is responsible for reviewing and recommending changes to the Policy.

- 1.38 **SAFETY.** Employees are required to follow all established safety policies and procedures and to cooperate with safety and security personnel of the College. Such policies have been established and posted in conjunction with the Occupational Safety and Health Administration (OSHA). The College's Risk Management Safety Council shall periodically review safety and health matters on campus. Copies of safety policies are available through the Department of Human Resources.

Employees must comply with safety practices relating to their work and can contribute to the safety of all by:

- a. Reporting any unsafe or unhealthy conditions or practices to their supervisor.
 - b. Reporting crimes or suspicious activity to the Department of Safety.
 - c. Reporting all on-the-job accidents/injuries to their supervisor and completing an incident report form.
 - d. Seeking treatment in the event of an on-campus accident/injury requiring immediate attention.
- 1.39 **CHILDREN IN THE WORKPLACE.** Children of employees are normally not present at an employee's workplace (e.g., office, classroom, shop, etc.) during an employee's work hours or when the College is in normal operations (8:00 a.m. to 5:00 p.m.). Emergency and occasional visits are welcome as long as they are not too frequent or for an extended period of time when the employee is on duty. It is the employee's responsibility to see that the child is appropriately supervised, does not interfere with anyone's work, and is not disruptive. Supervisors or department heads should be notified concerning children who need to be on campus more frequently or who become disruptive to other employees.

1.40 **COMPENSATION, WORK SCHEDULE AND PAYCHECKS**

- 1.40.01 **Wage Determination.** Messiah College strives to maintain fair and competitive wage and salary ranges consistent with the mission and values of a Christian college. Annually, the College conducts or participates in numerous wage and salary surveys with similar colleges, with colleges and universities in the local, regional and national labor markets and other employers in our local market. Staff and administrative wage and salary ranges are established based on data obtained from these benchmarking sources, the requirements and responsibilities of the position and the role of the position within the organization. Ranked faculty salary ranges are established in accordance with a schedule based upon academic rank (available for review in the Office of the Provost).

1.40.02 **Payroll Deductions.**

By law the College must withhold the following taxes, where applicable: FICA (Social Security and Medicare), federal, state, state unemployment, local, and local services. The amount of federal income tax withheld is based on the exemptions declared by the employee on his/her W-4 form. Employees are required to complete a W-4 Form for federal taxes and a Residency Information Form for local income taxes when beginning employment, when requesting a change in taxes, and for a change in address.

Other payroll deductions processed through payroll include, but are not limited to, employee benefits, mandatory garnishments, College-related charitable gifts processed via payroll, and non-cash taxable compensation for items such as educational assistance, moving expenses, and personal use of a company car.

Changes in deductions can be made by contacting the Payroll Office. Changes in benefits can be made by contacting the Benefits Manager.

- 1.40.03 **Recording Leave Time.** Information on the accrual, earning, usage, and recording of vacation, sick, and personal leave time is documented in the leave benefits sections of this manual. Employees taking vacation, sick, or personal leave time on any regularly-scheduled day may report only a total of worked and leave hours that is equivalent to the employee's regularly-scheduled number of hours for that day. For example, an employee with a normal schedule of 8:00 - 5:00 cannot begin work at 7:30 and record leave time through 5:00. Instead, the employee should reduce the leave time recorded to be equivalent to the additional time worked.
- 1.40.04 **Time Sheets.** Federal law requires that positions covered under the Fair Labor Standards Act have accurate records of hours worked. Therefore, staff employees shall complete weekly time sheets and submit them to the appropriate supervisor for signature and routing to payroll, following the established payroll deadlines. It is the supervisor's ultimate responsibility to ensure that all time sheets are submitted to the Payroll Office on time to be included in the regularly-scheduled payroll.
- 1.40.05 **Administrative Leave Reports.** Administrative employees are required to complete a monthly record of vacation, sick, and/or personal leave time taken for each scheduled work month and submit the report to the Payroll Office. Employees must submit a leave report even if no time off was taken during a given month.
- 1.40.06 **Compensation for Overtime**
- 1.40.06.01 **Cash Overtime Payment.** A rate of time-and-one-half will apply to all hours worked by hourly (non-exempt) employees in excess of 40 hours during the Sunday to Saturday work week. Holidays, vacation, and closed days scheduled within the established work week will be considered days worked for the purpose of computing overtime. Sick and personal days, as well as funeral leave, taken at the employee's request are not considered days worked for the purpose of computing overtime. In addition to straight pay for regularly-scheduled hours, the daily overtime rate of time-and-one-half will be paid for work performed by essential hourly employees (and any non-essential hourly employees who are deemed essential in order to address the College emergency) on any scheduled holiday listed in the Benefits section of this manual and for emergency closings as outlined in the Emergency Closing Procedures section of this manual.
- Weekly hours worked, for calculating additional overtime, will include actual hours worked--rather than the regularly-scheduled hours--for any holiday or closed day. For example, an hourly employee normally scheduled for 8 hours on a holiday who works 10 hours will receive overtime on the 10 hours worked, and will have only the 10 hours actually worked included in the total weekly hours calculation for additional weekly overtime.
- 1.40.06.02 **Compensatory Time.** Under certain circumstances, the Fair Labor Standards Act (FLSA) permits an employer to compensate an employee for overtime hours by allowing compensatory time off in lieu of cash payment.
- a. *Hourly (non-exempt) Employees.* The College does not authorize the use of compensatory time off for hourly (non-exempt) employees. All overtime hours will be compensated on a cash basis for hourly employees.
 - b. *Salaried (exempt) Employees.* Compensatory time is not customarily granted to salaried employees, but may be authorized under extreme circumstances at the discretion of the department supervisor.
- 1.40.07 **Honorarium Payments.** An honorarium payment is a payment given to an individual as a token of appreciation for services for which fees are not legally or traditionally required. To be considered an honorarium, the service performed must be voluntarily completed by the employee and should typically be outside the scope of the employee's normal job duties. Honorariums may include, but are not limited to, such items as: guest lecturing, performing

(e.g., voice or instrumental) at a special event, participating in an educational event (e.g., work at a college-hosted conference), and other similar items.

All honorarium payments for individuals already employed by the College must be processed via Payroll, even if the payment would otherwise qualify to be paid via Accounts Payable. Honorariums payments for individuals NOT employed by the College should be processed via Accounts Payable, OR if under \$75, can be paid via a gift of appreciation. Work performed by students that would typically qualify as honorariums, should be processed by Payroll via the submission of the Request for Student Single Payment form. All honorarium-type work paid to students will be charged to the standard student payroll account.

- 1.40.08 **Break in Service.** A break in service from the College shall occur when an employee is no longer employed by the College for a period of 12 or more consecutive months, due to resignation, retirement, discharge, layoff, or other reasons during which a break in service may occur.

Employees hired after a break in service of 12 or more consecutive months will not retain their seniority and shall begin employment seniority effective the date of the subsequent hiring.

- 1.40.08.01 **Change in Employment Status Relative to Benefits.** Employees who change from part-time or limited-hour to full-time status shall maintain seniority and gain additional benefits associated with full-time employment unless identified otherwise in such policies as the **Employee Dependent/Spouse Educational Assistance** policy.

Employees who change from full-time to part-time or limited-hour status shall maintain seniority but forfeit full-time benefits for part-time benefits.

- 1.40.09 **Human Resources and Payroll Processing Deadlines.**

(Owner: Offices of Human Resources / Payroll; Last Reviewed: 04-Oct-2011; Last Updated: 04-Oct-2011)

All required payroll items must be received in the Office of Human Resources and the Payroll Office in a timely fashion in order to be processed and included on the appropriate payroll. This is critical to meet payroll processing deadlines, comply with legal pay and tax reporting requirements, maintain employee satisfaction, and avoid additional, unscheduled work for Human Resources, Payroll, and related departments.

To aid in this process, the Office of Human Resources and the Payroll Office have established deadlines and guidelines in order to assure completion of the payroll process in a timely and reasonable fashion, which can be reviewed at:

http://www.messiah.edu/offices/business/payroll/faqs/Payroll_Processing_Deadline_Policy.pdf