

Messiah University

Interim Interpersonal Violence and Sexual Misconduct Policy

Effective August 14, 2020

This policy addresses a range of inappropriate gender-based behavior for which the common element is nonconsensual sexual contact or violence, often including the use of coercion, force or threat of force to overpower another individual, or pursue contact against his or her will. Such conduct includes stalking, harassment, sexual assault, dating violence, and domestic violence. The act of leveraging one's power over another individual is in itself an act of violence, regardless of the behavior used. Messiah University policies prohibit all forms of power-based violence.

The Messiah University Interim Interpersonal Violence and Sexual Misconduct Policy includes protocols to prevent, address, and remedy the following:

Interpersonal Violence and Sexual Misconduct (i.e., Sexual Assault; Sexual Exploitation; Stalking; Dating Violence; Domestic Violence; Sex and/or Gender-Based Discrimination and/or Harassment; Sex and/or Gender-Based Hazing; Retaliation)

Title IX Misconduct (i.e., *Quid Pro Quo* Sexual Harassment; Severe, Pervasive and Objectively Offensive Sexual Harassment; Sexual Assault; and Sex-Based Dating Violence, Domestic Violence, and/or Stalking; as defined by and within the scope of Title IX).

The University must define and respond to Title IX Misconduct as required by regulations issued in May 2020 by the U.S. Department of Education to implement Title IX of the Education Amendments of 1972. (See Appendix A for definition of Title IX Misconduct.)

As permitted by the Title IX Regulations, Messiah University defines and regulates prohibited conduct that does not meet the definition of Title IX Misconduct, but which the University is committed to addressing as potential violations of University policy and/or as required by other applicable law, such as VAWA and the Clery Act (see below).

Accordingly, Messiah University's Policy prohibiting Interpersonal Violence and Misconduct and Title IX Misconduct is consistent with the Title IX Regulations, as well as the University's mission and commitment to ensuring a safe and non-discriminatory campus community.

Legal Context

Title IX of the Education Amendments of 1972 prohibits sex discrimination – which includes sexual violence – in educational programs and activities. Students, staff and faculty are free to pursue education, including athletic programs, scholarships and other activities free from sex discrimination, including harassment, stalking, sexual misconduct, and sexual violence.

The Violence Against Women Act of 1994 (VAWA) is a federal law addressing the need for increased standards of investigation, prosecution, restitution and complainant support resources in the event of a violent crime. Alongside the Clery Act of 1990—responsible for requiring thorough documentation,

reporting criteria and publicized crime statistics for university campuses—VAWA and Title IX are federal mandates that support our institution’s care for our community members.

Messiah University takes its responsibilities under these federal regulations seriously. Therefore, those who have questions about Title IX, VAWA or Clery (or wish to file a related complaint) may contact the Title IX Coordinator or one of the Title IX Deputy Coordinators listed below:

Title IX Coordinator

Amanda Coffey, Vice President for HR & Compliance
Old Main 2nd Floor
ACoffey@messiah.edu, 717-796-5300

Title IX Deputy Coordinator

Doug Wood, Associate Dean of Students
Eisenhower Campus Center 205
DWood@messiah.edu, 717-796-1800 ext. 3200

Coordinator for Interpersonal Violence Prevention & Education

Hannah McBride
Old Main 2nd Floor
hmcbride@messiah.edu, 717-796-1800, ext. 2608

Title IX Deputy Coordinator

Cindy Burger, Director of Safety
Greenbriar Building
CBurger@messiah.edu, 717-691-6005

Title IX Deputy Coordinator

Brooke Good, Head Coach, Asst. Athletics Director
Sollenberger Sports Center, Suite 4501
good@messiah.edu, 717-796-1800 ext. 7359

Our Community Standard

Messiah University prohibits the offenses of interpersonal violence—including dating or domestic violence, harassment, hazing, sexual assault, and stalking (as defined by the Clery Act) and reaffirms its commitment to maintaining a campus environment that emphasizes the dignity and worth of all members of the university community. Toward that end, Messiah University issues this statement of policy to inform the campus community of our programs to address interpersonal violence, harassment, hazing, sexual assault and stalking. Messiah University also affirms this statement of procedures for institutional disciplinary action in cases of alleged interpersonal violence, harassment, hazing, sexual assault and/or stalking, when it is reported to a University official. Messiah University’s responsibilities to address such behavior are broader than the law enforcement classifications of crimes and therefore our policy uses broader definitions.

*The University community follows the definitions outlines in **Appendix A** of this policy.*

These behaviors are demeaning and interfere with the rights of others to pursue their education in an atmosphere that is safe and respectful. Messiah University observes and protects the rights to and resources of safety and support measures available to every Messiah student—regardless of age, gender, race, ability or disability, orientation or religion.

While this policy obviously addresses overt acts of violence, any sexual contact without consent and any gender-based violence are strictly prohibited. Examples of violent and unacceptable behavior include, but are not limited to:

- sexual contact without consent
- sexual contact while a person is incapacitated
- sexual exploitation of another person, such as posting sexual pictures on social media

- coercion for sexual contact
- stalking
- threatening or intimidating a person for sexual contact

Messiah University seeks to provide a consistent, caring, and timely response when a sexual assault or any violation of this policy occurs within our university community. Specifically, this policy defines the coordinated campus-wide efforts to provide an appropriate and effective institutional response to incidents of harassment, stalking, hazing, sexual misconduct, and/or sexual violence. Our protocol is designed to do the following:

- Establish and cultivate community involvement in sexual interpersonal violence prevention.
- Create a university environment that expedites and encourages the prompt reporting of interpersonal violence.
- Facilitate the recovery of a complainant by providing prompt and compassionate support services. The University provides crisis intervention, advocacy and referral services to students impacted by interpersonal violence.
- Investigate reports of interpersonal violence, harassment, hazing, sexual assault and/or stalking, promptly and thoroughly.
- Take timely and effective steps reasonably calculated to end the interpersonal violence, harassment, hazing, sexual assault and/or stalking, prevent its recurrence, and as appropriate, remedy its effects.
- Where appropriate, assist local law enforcement.

Procedures for Complainants of Interpersonal Violence, Harassment, Hazing, Sexual Assault and/or Stalking

The term “Complainant” is used to refer to a member of the Messiah University community who has potentially experienced harm or prohibited conduct and wishes to participate in a process to address the report of this harm or prohibited conduct. In some instances, the person who is reported to have experienced harm or prohibited conduct may not wish to participate in a resolution process. In such cases, under Title IX Misconduct only, a third party *may* report on behalf of the complainant, becoming the complainant in the resolution process. This includes instances where the University may choose to pursue a resolution process under this policy without a participating complainant.

For continuity, “Complainant” will also be used throughout this policy and resolution process documents to refer generally to an individual who is reported to have experienced harm or prohibited conduct, even if they do not participate in any related process.

The term “Respondent” refers to an individual (or individuals) that have been accused of causing harm under the Messiah University Interpersonal Violence and Sexual Misconduct Policy. In Title IX Misconduct, a respondent is specifically someone who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

All complainants of interpersonal violence, harassment, hazing, sexual assault and/or stalking are encouraged to contact a support person of their choosing or an advocate (can be contacted at the [YWCA Carlisle](#) or [Harrisburg](#)) for support during any of the following processes. Advocates are free, confidential resources trained and available to meet complainants at the hospital or on campus; advocates are equipped

to explain procedures and rights within the medical examination and criminal investigation process to assist complainants in choosing a course of action.

After an incident of interpersonal violence and/or sexual assault, complainants should consider seeking medical attention as soon as possible at any of the following hospitals: Harrisburg Hospital, West Shore Pinnacle Hospital, Carlisle Regional Medical Center or Holy Spirit Hospital. All four hospitals have trained professional staff who specifically handle sexual assaults. In PA, evidence may be collected even if you chose not to make a report to law enforcement.

Cumberland County, which includes Upper Allen Township and the area the university encompasses, has established an anonymous reporting protocol for complainants of sexual assault. “Anonymous Reporting” is the name for the forensic evidence collected during a sexual assault examination for a complainant who chooses to remain anonymous. An Anonymous Report enables a complainant to have forensic evidence collected without revealing identifying information. Complainants are given a code number they can use to identify themselves if they choose to report later and they are not required to cooperate with law enforcement or criminal justice authorities.

“Anonymous Reporting” is an avenue for complainants to seek services and to have evidence collected without immediately deciding whether or not to report to the police. This way the evidence is properly preserved and may be used in a physical evidence-based prosecution when/if the complainant becomes ready to report to law enforcement. The Cumberland County District Attorney’s office manages the County’s anonymous reporting protocol. More information on the County’s anonymous reporting protocol is available through the Title IX Coordinator or the Coordinator for Interpersonal Violence Prevention and Education.

It is important that a complainant of sexual assault not bathe, wash, douche, smoke, change clothing, or clean the bed/linen/upholstery/area where the assault took place if the offense occurred within the past 96 hours. This is so that evidence may be preserved. Preserving evidence may assist in proving that the alleged criminal offense occurred/or is occurring or may be helpful in obtaining a protection order.

Health care providers can still treat injuries and take steps to address concerns of pregnancy and/or sexually transmitted infections in circumstances of sexual assault, even if complainants do not opt for forensic evidence collection.

Complainants of interpersonal violence, harassment, sexual assault and/or stalking are also encouraged to save text messages, instant messages, social networking pages, other communications, pictures, letters, logs, or other copies of documents that would be useful to University adjudicators/investigators or police.

As time passes, evidence may dissipate or become lost or unavailable, thereby making investigation, possible prosecution, disciplinary proceedings, or obtaining protection from abuse orders related to the incident more difficult. If a complainant chooses to not make a complaint regarding an incident, they should still consider preserving evidence in the event that they decide to report the incident to law enforcement or the University at a later date.

The Institution's Responsibilities and Complainant Rights to Protective Measures

Messiah University complies with Pennsylvania State law in recognizing orders of protection. Any person who obtains an order of protection from Pennsylvania or any reciprocal state should provide a

copy to the Department of Safety and the Title IX Coordinator. A complainant may then meet with the Department of Safety, or the Coordinator for Interpersonal Violence Prevention and Education, to develop a Safety Action Plan, which is a plan to reduce the risk of harm while on campus or coming and going from campus.

This plan may include, but is not limited to: escorts, special parking arrangements, changing work site location, changing classes or working with Academic Advising on alternative class possibilities, allowing a student to complete assignments from home, allowing an employee to develop a flexible work schedule, etc. Messiah University cannot apply for a legal order of protection, no contact order or restraining order for a complainant from the applicable jurisdiction(s); this is the complainant's responsibility. If a complainant is interested in receiving University support through this process, the complainant may contact the Coordinator for Interpersonal Violence Prevention and Education for assistance.

In Pennsylvania, a complainant of interpersonal violence, sexual assault and/or stalking has the right to file a petition with the courts requesting protection through the following: Protection from Abuse Orders (PFA's), Sexual Violence Protection Orders (SVPO's), and/or Protection of Victims of Sexual Violence or Intimidation (PSVI's), which could include the following:

- An order restraining the abuser from further acts of abuse;
- An order directing the abuser to leave your household/place of residence;
- An order directing the abuser to refrain from stalking or harassing you or other designated persons;
- Other protections based on issues related to cohabitation, residency, employment, and child custody.

When an abuser is not a present or past member of the complainant's household or family, adults and minors can petition for a Sexual Violence Protection Order (SVPO). For example, an SVPO could be granted for a complainant who is sexually assaulted by a coworker and who has no other relationship with the coworker – is not now or never was a family relation, spouse, dating partner or member of the same household.

The Coordinator for Interpersonal Violence Prevention and Education or the Department of Safety will assist complainants via referral to local courts/District Attorney or Domestic Violence Services. The most efficient way to obtain a PFA is to use a resource such as the Domestic Violence Services of Cumberland and Perry Counties. The Coordinator for Interpersonal Violence Prevention and Education or the Department of Safety will assist complainants who are interested in pursuing a PFA, PSVI, or SVPO. Any student or employee who obtains a protection order from Pennsylvania or a reciprocal State should provide a copy to the Department of Safety. The Department of Safety will help facilitate the reporting of PFA violations to the local police.

Additional Complainant's Rights

Students have the right to choose whether to report, receive support, and/or file a formal complaint leading to resolution process.

Students have the right under federal law (Title IX) and University policy to expect that reports of interpersonal violence, harassment, hazing, sexual assault, and/or stalking will be taken seriously by the University. At the request of the student making the report or when deemed necessary to protect the interests of the university community, reports will be investigated and properly resolved through

administrative procedures. Officials of the university, such as the Residence Life staff, the Deans, Title IX Coordinator/Deputy Coordinators or other administrators, shall be available to any student seeking information or wishing to report an incident of interpersonal violence, harassment, hazing, sexual assault, and/or stalking.

Messiah University must conduct an adequate, reliable and impartial investigation.

*A comprehensive review of complainant's rights is found in **Appendix B** of this policy.*

University Issued Supportive Measures to Complainants and Respondents

While not the same as a state-mandated protection order, the University can issue a "No Contact Mandate" at the request of either the complainant or the respondent. This includes, but is not limited to, written, verbal and/or physical communication. Written communication includes all electronic means of communication; including, but not limited to, email, instant messaging, text messaging and social media. Verbal communication includes phone calls and voice mail messages. A "No Contact Mandate" may include additional restrictions and terms.

The Associate Dean of Students, Title IX Coordinator, and/or the Director of Safety issues this directive. If the University receives a report that an institutional "No Contact Mandate" has been violated, the University will initiate disciplinary proceedings appropriate to the status of the respondent and will impose sanctions if the respondent is found responsible for violating the "No Contact Mandate". If a student at the University is interested in receiving information or support regarding the "No Contact Mandate" process, the complainant may contact the Coordinator for Interpersonal Violence Prevention and Education, the Department of Safety, or the Associate Dean of Students for assistance.

If the person in question and requiring a "No Contact Mandate" is not a Messiah University community member, the University will work with local police departments to pursue other measures of protection.

Messiah University will provide complainants and respondents with prompt supportive measures, even before an investigation is completed. Upon receipt of a report of interpersonal violence, harassment, hazing, sexual assault and/or stalking, Messiah University is prepared to implement measures that facilitate the complainant's sense of safety and the University's due process which includes equitable access to supportive measures to all parties.

The University will provide written notification to students about accommodations available to them, via the Title IX Coordinator and/or designee, including supportive measures affecting their academic, living, transportation, and working situations. The written notification will include the following information: who to contact to request accommodations, the accommodation options available and how to obtain assistance with requesting accommodations.

Supportive measures are confidential to those that must be notified, free of charge when provided at/by the University, made available at any time, and provided at the approval of the Title IX Coordinator.

At the student's request, and to the extent of the student's cooperation and consent, University offices will work cooperatively to assist the concerned parties in obtaining accommodations.

If reasonably available, a complainant may also be offered changes to academic, living, working or transportation situations regardless of whether the complainant chooses to report the alleged crime in a

formal complaint to campus officials or local law enforcement. Some of the accommodations and protective measures available are:

- Transfer to a different section of a class
- Withdrawal from a class (if there is no option for moving to a different section)
- Move to a different room or residence hall
- Change in work schedule
- Change in parking assignment
- Safety escort for campus

Supportive measures may include changes or restrictions imposed on another student (such as the respondent) including:

- Change in residential assignment
- Campus restrictions
- Loss of Grantham Campus or Satellite Housing living privileges
- Prohibition from enrolling in or maintaining attendance in specific course offerings
- Implementation of a No Contact Mandate and/or restrictions from campus
- Other reasonable supportive measures

To receive assistance in obtaining such supportive measures or to request accommodations, a student should contact any of the following:

Title IX Coordinator

Amanda Coffey, Vice President for HR & Compliance
Old Main 2nd Floor
ACoffey@messiah.edu, 717-796-5300

Title IX Deputy Coordinator

Doug Wood, Associate Dean of Students
Eisenhower Campus Center 205
DWood@messiah.edu, 717-796-1800 ext. 3200

Coordinator for Interpersonal Violence Prevention & Education

Hannah McBride
Old Main 2nd Floor
hmcbride@messiah.edu, 717-796-1800, ext. 2608

Title IX Deputy Coordinator

Cindy Burger, Director of Safety
Greenbriar Building
CBurger@messiah.edu, 717-691-6005

Title IX Deputy Coordinator

Brooke Good, Head Coach, Asst. Athletics Director
Sollenberger Sports Center, Suite 4501
good@messiah.edu, 717-796-1800 ext. 7359

Messiah University has designated personnel who can help students to understand, evaluate and choose among the services outlined in this protocol, and help ensure continuity of services by offering follow-up contact. Students should be offered a preference of gender in personnel, determining which personnel will assist in any given matter. The following serve as designated campus personnel for responding to inquiries regarding supportive measures:

- Vice Provost for Student Success and Engagement
- Dean of Students

- Director/Department of Safety – Title IX Deputy Coordinator
- Associate Dean of Students – Title IX Deputy Coordinator
- Engle Center for Health and Counseling Services (*Confidential resource*)
- VP of Human Resources and Compliance – Title IX Coordinator
- Coordinator for Interpersonal Violence Prevention and Education (*Confidential resource*)

Amnesty

Students, regardless of age, will be granted immunity from university disciplinary proceedings for the violation of community conduct standards if the Department of Safety, Residence Life staff or other University official becomes aware of the breach in community behavior standards because the individual was seeking medical assistance for someone else. **The person seeking assistance must reasonably believe he or she is the first to call for assistance, must use his/her own name with authorities, and must stay with the individual needing medical assistance until help arrives.**

Amnesty includes, but is not limited to, drug and/or alcohol possession and/or consumption, consensual sexual conduct and/or inappropriate use of institutional property.

Amnesty is never granted for instances of abuse, violence, assault or egregious behavior to another person.

Students will be immune from student disciplinary proceedings for conduct violations if she/he can establish the following:

1. The only way University officials became aware of the person's violation is because the person placed a 911 call, or a call to Dispatch/Department of Safety, police or emergency services, in good faith based on a reasonable belief that another person was in need of immediate medical attention to prevent death, serious injury or trauma.
2. The student reasonably believed she/he was the first person to make a 911 call, or a call to Dispatch/Department of Safety, police or emergency services, and report that a person needed immediate medical attention to prevent death, serious injury or trauma.
3. The student provided his/her own name to the 911 operator or equivalent campus safety, police, or emergency officer.
4. The student remained with the person needing medical assistance until emergency health care providers arrived and the need for his/her presence had ended.

Students meeting the above criteria may be asked for a statement from University officials or the police, but will not be subject to a disciplinary response.

Statement on Confidentiality and Privacy

Complainants of interpersonal violence have the right to choose whether they share their experience in a formal complaint to pursue investigation and resolution, in an informal or adaptable resolution process to pursue resolution, or with a confidential resource that will not pursue a resolution process without the complainant's request, but will still offer support.

The University encourages complainants to talk to somebody about what happened in order to receive the support they need and so the University can respond appropriately. Nonetheless, complainants have the right to talk with University officials about protecting their privacy and to report a violation of this policy in confidence.

Complainants may request that directory information on file with the University be withheld by request.

This request should be made to the Registrar's Office in person by visiting that office located in Old Main.

Different employees on campus have different abilities to maintain a complainant's confidentiality. All employees are expected to keep reports and personal information private—that is, to be respectful and discreet. If a formal report is necessary, all employees are expected to report only to campus officials that need to know information in order to follow due process. Employees are required to report all the details of an incident (including the identities of both the complainant and respondent) to the Department of Safety, the Title IX Coordinator (*or* a Deputy Coordinator), or the Coordinator for Interpersonal Violence Prevention and Education.

The University cannot access or use a party's medical, psychological, or similar treatment records without the party's voluntary, written consent to do so.

Actual Knowledge and Deliberate Indifference

Messiah University commits to responding to all reports of prohibited conduct, including alleged incidents of interpersonal violence, harassment, hazing, sexual assault, and/or stalking. The University's obligation to respond is triggered only after the University has "actual knowledge" of the alleged prohibited conduct.

"Actual Knowledge," as defined by the Title IX Regulations, refers to once the Title IX Coordinator or "any official of the recipient [University] who has authority to institute corrective measures on behalf of the recipient [University]."

Failure to act on Actual Knowledge results in discrimination and "Deliberate Indifference," and a violation of federal law (Title IX).

As such, a report to employees constitutes a report to the University and generally obligates the University to investigate the incident and take appropriate steps to address the situation.

Confidential Resources

However, some employees are required to maintain near complete confidentiality, and talking to them is sometimes called a "privileged communication." If any person—complainant or respondent—involved in the report desires confidential support, he/she may speak with any of the following:

- Professional staff in the Counseling Center, located in the Engle Health Center (ext. 6035)
- A nurse in the Engle Health Center (ext. 6035)
- Coordinator for Interpersonal Violence Prevention & Education (ext. 2608)

Confidential staff are required to pass along non-personally identifiable statistical information to the Department of Safety. The only information that will be released is that an incident was reported, the type of incident and the general location of the incident (i.e., "on campus" or "off campus"; no address will be given). Statistics given to Safety will be made available through publication in the Annual Security and Fire Safety Report. No personally identifiable information on complainants will be contained and/or released within any published record without the complainant's consent.

The University does not publish the name of crime complainants or other identifiable information regarding complainants in the Daily Crime and Fire Log or in the annual crime statistics that are disclosed in compliance with the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act*. Furthermore, if a Campus Safety Alert or Timely Warning Notice is issued on the basis of a report of interpersonal violence, harassment, hazing, sexual assault and/or stalking, the name of the complainant and other personally identifiable information about the complainant will be withheld. This information could include the specific location where an incident is reported to have occurred when reporting the location could inadvertently identify the complainant.

Members of the Engle Counseling/Health Services staff and the Coordinator for IPV Prevention & Education are confidential resources and do not report incidents unless the student specifically requests them to do so. The only details shared are to capture general details about the incident (date, time, location, and brief description of incident type) which is for inclusion of the university's Annual Security and Fire Safety report. Please note the University is required by law to use any information included in an anonymous report of sexual misconduct and/or assault to investigate the report. If you include personally identifiable information in an anonymous report, it will be used in an investigation.

A complainant who reports confidentially to the Coordinator for Interpersonal Violence Prevention and Education or staff in the Counseling Center or Health Center needs to understand that, if the complainant wants to maintain confidentiality, the University will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the respondent.

Even so, confidential staff members will still assist the complainant in receiving other necessary protection and support, such as complainant advocacy, academic support or accommodations, disability, health or mental health services, changes to living assignment and adjustments to working or course schedules.

A complainant who at first requests confidentiality may later decide to file a formal complaint with the University or report the incident to local law enforcement, and thus have the incident fully investigated. The counselors and advocates will provide the complainant with assistance if the complainant wishes to do so.

If the University determines that the respondent poses a serious and immediate threat to the University community, University officials may be called upon to issue a timely warning to the community, per federal guidance (The Clery Act). Any such warning should not include any information that identifies the complainant.

Off-campus Counselors and Advocates

Off-campus counselors and advocates will also maintain confidentiality and not share information with the University unless the complainant requests the disclosure and signs a consent or waiver form.

Health care professionals may not be able to maintain levels of confidentiality because law enforcement may be contacted simultaneously or insurance companies must be billed for services rendered outside a sexual assault examination.

Law enforcement will not maintain confidentiality.

The following is contact information for these off-campus resources:

OFF CAMPUS	Students
Counseling:	Messiah University Engle Health/Counseling Ctr. Phone: 717-691-6035 - (Can make recommendations for local confidential counseling and psychiatric services in the local area)
Medical	Harrisburg Hospital 717-221-6250 West Shore Pinnacle Hospital: 717-791-2600 Carlisle Regional Medical Ctr. 717-249-1212 Holy Spirit Hospital 717-763-2100 *All have trained professional staff who specifically handle sexual assaults
Cumb Cty Rape Crisis Services	Office 1-888-727-2877 Hotline: 717-258-4324 or 717-258-1143
YWCA Rape Crisis Domestic Violence Services in Hbg.	Open 24 Hours/7 Days Week 1-800-654-1211 717-238-7273
YWCA of York Complainant Assistance	1-800-422-3204 717-854-3131
Complainant Advocacy	Complainant Services of Cumberland County Phone: 717-761-5599
Domestic Violence Services	Services of Cumberland & Perry Counties Hotline: 1-800-852-2102
Legal Assistance	Cumberland County District Attorney's Office Phone: 717-240-6220
Visa and Immigration Assistance	30 N. 41 st Street; Philadelphia, PA 19104 Phone: 1-800-375-5283
Upper Allen Police Carroll Twp Police	Cumberland County Emergency Center: 911 York County 717-766-0249

Sexual Misconduct Response Team

If the Vice Provost, Associate Dean of Students and/or Title IX Coordinator determines that a reported incident of interpersonal violence, harassment, hazing, sexual assault and/or stalking represents a potential danger to the campus community, they will convene the Sexual Misconduct Response Team. A potential danger to the community includes but is not limited to the following:

- A pattern of acquaintance sexual assault;
- A stranger assault;
- A violent or sadistic assault;

- Gang rape;
- Random and troubling stalking patterns

The Sexual Misconduct Response Team will be composed of at least the following:

- Vice Provost for Student Success and Engagement, Facilitator
- Title IX Coordinator/VP for Human Resources & Compliance
- Director for the Department of Safety
- Associate Dean of Students
- Coordinator for Interpersonal Violence Prevention and Education
- Director of Health and Counseling Services
- University Counsel

When appropriate, the Sexual Misconduct Response Team will work in conjunction with the mobilization of the university's Crisis Management Team. The purpose of the Sexual Misconduct Response Team is to address the safety needs of the community while protecting the complainant's right to privacy and insuring the integrity of university response. If a threat to the community is determined, a warning will be released and other steps to ensure campus safety will be considered. The Vice Provost/Dean of Students (VP/DOS) will be responsible for the release of information, and will do so in consultation with the Director of Public Relations. The VP/DOS will notify the President and Provost of the concern and response.

The complainant will not be present at the Team meetings and the complainant's rights to confidentiality will be respected by all team members. The VP/DOS will keep the complainant informed of the Team's actions, either directly or indirectly through the contact person who reported the assault to the VP/DOS.

Emergency Removal

In the event that an individual (complainant or respondent) may be of concern to the Sexual Misconduct Response Team as a threat to the physical health or safety to themselves or others in the community, an emergency removal protocol may be engaged. Emergency removal protocol includes an individualized safety and risk analysis initiated by the Title IX Coordinator or the Associate Dean of Students (or a designee) and may result in immediate suspension of the student in question. A post-removal opportunity for a meeting will be offered and except in extraordinary circumstances, that meeting will be scheduled as soon as possible, typically within three (3) calendar days.

At this meeting, the student will be informed of the nature of the emergency removal, presented with available evidence, and given the opportunity to make a statement and present evidence. If the suspension remains in place following the meeting, the student will be offered a hearing option to challenge the decision as soon as practicable, typically within ten (10) calendar days, as per the misconduct appeal process at Messiah University.

Reporting a Violation

A complainant may choose to report an incident of interpersonal violence or sexual misconduct but not file a formal complaint with the University. For resolution processes available to a student—filing a confidential report, seeking an informal or adaptable resolution process, or pursuing an investigative or Title IX resolution process—see Grievance Procedures.

When a complainant tells any employee not clearly identified as sources of confidentiality as outlined above about an incident of interpersonal violence or sexual misconduct, the complainant has the right to expect the University to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

There are several options for reporting:

OFFICIAL REPORTING	CONFIDENTIAL REPORTING
<ul style="list-style-type: none"> • Report the incident to the Title IX Coordinator or a Deputy Coordinator via: <p>Coordinator for Interpersonal Violence Prevention & Education (<i>also a confidential resource</i>) Hannah McBride Old Main 2nd Floor hmcbride@messiah.edu, 717-796-1800, ext. 2608</p> <p>Title IX Coordinator Amanda Coffey, Vice President for HR & Compliance Old Main 2nd Floor ACoffey@messiah.edu, 717-796-5300</p> <p>Title IX Deputy Coordinator Doug Wood, Associate Dean of Students Eisenhower Campus Center 205 DWood@messiah.edu, 717-796-1800 ext. 3200</p> <p>Title IX Deputy Coordinator Brooke Good, Head Coach, Asst. Athletics Director Sollenberger Sports Center, Suite 4501 good@messiah.edu, 717-796-1800 ext. 7359</p> <p style="text-align: center;"><i>Residence Directors may be contacted, but will be required to report to a Title IX Coordinator</i></p> <ul style="list-style-type: none"> • Report the incident to the Department of Safety: <p>Title IX Deputy Coordinator Cindy Burger, Director of Safety Greenbriar Building CBurger@messiah.edu, 717-691-6005</p>	<ul style="list-style-type: none"> • Report the incident to a <i>confidential</i> support person on campus: <ul style="list-style-type: none"> · Counselor (Engle Center) ext. 5357 · Coord. For IPV Prevention & Education ext. 2608 · Nurse (Engle Center) ext. 6035 • Report the incident to a <i>confidential</i> support person off campus: <p>Advocacy & Rape Crisis—</p> <ul style="list-style-type: none"> • 24/7HOTLINE: <ul style="list-style-type: none"> · 1-888-727-2877 • YWCA of Carlisle – Sexual Assault/Rape Crisis Services 717-258-4324 • YWCA of Harrisburg – Violence Intervention <ul style="list-style-type: none"> · 1 (800) 654-1211 or (717) 238-7273 <p>Health and Medical Care—</p> <ul style="list-style-type: none"> · Harrisburg Hospital: 717-221-6250 * · West Shore Pinnacle Hospital: 717-791-2600* · Carlisle Regional Medical Center: 717-249-1212 * · Holy Spirit Hospital: 717-763-2100* <p style="text-align: center;"><i>*provide professional staff who specifically handle sexual assaults</i></p> <ul style="list-style-type: none"> • Report the incident anonymously through Silent Witness: http://www.messiah.edu/forms/form/164/en/silent_witness

If a situation is of a life threatening nature or immediate care & response is required, please dial 911 or 9-911 if using a campus phone.

An array of safety, medical, psychological, administrative and resolution services are in place and immediately available to students reporting interpersonal violence. The University is committed to supporting a complainant's right to exercise his or her informed choice among these services and to insuring as reasonably possible his or her confidentiality, if confidential support is requested. Messiah University will provide counseling and health services regardless of whether the complainant elects to pursue university disciplinary action or criminal prosecution. The Student Handbook describes rights of the respondent in campus discipline.

LGBT+ Rights:

Reporting an incident of harassment or assault is never easy or simple.

Seeking support takes courage and vulnerability; for members of the Messiah University community who identify as LGBT+ or non-gender conforming, this can be especially true. We want to acknowledge the complexity of finding help in a situation already full of anxiety, trauma and possible physical injury. The same resources and measures of support are available to Messiah University students and employees regardless of gender or sexual orientation.

We value safety and care for our community members. If you have or someone you know has experienced same-sex assault or harassment, or identify as a member of the LGBT+ community and experienced interpersonal violence of any nature, we encourage you to seek help from these resources.

Retaliation

Retaliation against someone who files a complaint or who participates in the investigation of a complaint is strictly prohibited by University policy and by law. Retaliation can occur in many forms. The following list illustrates some (not all) examples of behavior that would be considered retaliation:

1. Asking a complainant why they complained. Likewise, asking a witness why they were willing to make a statement.
2. Asking a complainant to rescind their statement. Having friends ask the complainant to rescind their statement.
3. Threatening the complainant or witness in any manner.
4. Cyber-bullying the complainant or using social media to criticize, harass, demean or aggravate the complainant/witness.
5. Excluding the complainant from team meetings or other such events to which the complainant is a rightful participant.

Respondents need to be careful to avoid behaviors that could *be experienced* as retaliation. If you are unclear as to how to proceed in a particular situation, excuse yourself and seek counsel from Student Success and Engagement, Human Resources or the Department of Safety.

Education and Support

All campus departments who would be in a position to provide an immediate support network for a student reporting incidents of interpersonal violence, harassment, hazing, sexual assault and/or stalking need to be familiar with:

- Boundaries of confidentiality
- Services offered by the University and specific departments
- Reporting options and choices available to the complainant
- Resources available on and off campus of support
- Trauma-informed response

Programming and prevention for students and employees addressing the issues of interpersonal violence, harassment, hazing, sexual assault and stalking will be addressed in several venues:

- Policy and reporting obligations education for all incoming students and new employees.
- Primary prevention and awareness programs for all incoming students and new employees.
- Prevention and response will be addressed annually in all Residence Life staff training.
- An educational pamphlet addressing interpersonal violence policies and processes will be distributed annually.
- Hazing prevention and response education.
- Healthy and unhealthy relationship programming (such as OneLove).
- Stalking prevention, education and response.
- Trauma-informed response.
- Safe and positive options for bystander intervention.
- Ongoing prevention and awareness programs for students and employees
- A rape, aggression and defense class (RAD or SAFE) is available upon request.

Recent resources utilized for Interpersonal Violence and Sexual Misconduct education or training for decision-makers, Title IX investigators, and informal or adaptable resolution facilitators include:

- Trauma Informed Investigation Training—Tom Tremblay, consultant
Content subject to copyright. <https://www.tomtremblayconsulting.com/>
Sample of research and training:
https://www.youtube.com/watch?time_continue=1&v=gtWD1XJrhNo&feature=emb_logo
- Stalking Recognition and Response Training—SPARC
Stalking and the Use of Technology Education—SPARC
Content subject to copyright, intended for education. <https://www.stalkingawareness.org/>
Material access: <https://www.stalkingawareness.org/know-it-name-it-stop-it/>
- Title IX Investigator Training—D. Stafford and Associates
Content subject to copyright, intended for training professionals.
<https://www.dstaffordandassociates.com/>
Material summary access available upon request.
- Title IX Training—TrainED
Content subject to copyright.
CCCU Title IX Training – Part One
<http://www.trainedsolutions.com/portfolio-item/cccu-title-ix-trngpart1/>

CCCU Title IX Training – Part Two
<http://www.trainedsolutions.com/portfolio-item/cccu-titleix-trngpt-2/>

- Restorative Justice Training—American Bar Association
Content subject to copyright.
Presentation access: https://www.americanbar.org/groups/crsj/events_cle/program-archive/restorative-justice/
- Restorative Justice Training—Center for Restorative Justice
Trainers: Carrie Landrum and Kaaren Williamsen
Content subject to copyright. <https://www.sandiego.edu/soles/restorative-justice/campus-prism.php>
Training slides not available for public viewing.

The Grievance Process

Reporting

If this is an emergency, please dial 9-1-1 or the Department of Safety’s emergency extension 6565.

Complainants of interpersonal violence, harassment, hazing, sexual assault and/or stalking are encouraged to begin the process by talking with whomever they feel comfortable. This could include employees such as a Residence Director, Coach, Faculty Member, Director of Multicultural Programs, Director of International Student Programs, Director of Student Involvement and Leadership Programs, Vice President of Human Resources and Compliance, Campus Ministries, Work Study supervisor, Director of the Department of Safety, Associate Dean of Students and/or the Vice Provost/Dean of Students.

Students should be aware that all employees, with the exception of nurses and counselors, who are notified about an incident, are expected to report it to the Department of Safety, the Associate Dean of Students, Deputy Title IX Coordinators, Coordinator for Interpersonal Violence Prevention and Education, or the Title IX Coordinator.

Reporting does not mean a formal complaint has been filed, nor an investigation must be launched without a request by or permission of the complainant.

A report begins the process of offering complainants options for supportive measures and/or resolution processes.

Once a report has been received, the Coordinator for Interpersonal Violence Prevention and Education will contact the complainant to provide options regarding resources, resolution processes available, and supportive measures.

Confidential Reporting

Confidential reporting is available through the Coordinator for Interpersonal Violence Prevention and Education and the Engle Center.

Students do have the option of remaining anonymous by reporting via silent witness:

https://www.messiah.edu/forms/form/164/en/silent_witness.

(This option does minimize the investigation and the potential for subsequent outcomes or resolution.)

Supportive measures are made available to complainants choosing to report confidentially.

Grievance Procedures

Federal law requires the University to offer resolution processes, including investigative processes, in response to reported incidents of interpersonal violence, harassment, hazing, sexual assault and/or stalking in which the complainant files a formal complaint. Once made aware of a formal complaint, Messiah University is committed to addressing it and establishing a resolution.

Grievance processes include informal resolution processes and adaptable resolution processes, the investigation and hearing processes associated with any investigative resolution process (including Title IX Misconduct or the University's conduct proceedings), and any criminal processes related to the grievance. The Messiah University community understands that all parties involved in the report of a violation of the sexual misconduct policy experience significant distress, whether they are the complainant, the respondent, or any other individual associated with the report. All parties involved are expected to be treated with respect and dignity.

Once a formal complaint has been received, the Title IX Coordinator signs the formal complaint statement and assesses the initial complaint to determine whether or not the desired resolution process is appropriate to pursue.

Although the University's general grievance procedures allows for an informal resolution process, an informal process is not appropriate for most violations of the Interpersonal Violence, Harassment, Hazing, Sexual Assault and/or Stalking Policy. Most complaints are offered a full range of resolution processes, and every complainant has the right to request an investigative process and once they have filed a formal complaint.

There is no expectation that the complainant meet with or 'work things out' with the respondent.

Independent and Non-Biased Participants within the Grievance Process

University personnel already active in a resolution process will maintain independence from other resolution processes and roles, in regards to the same formal complaint. For example, a facilitator for an informal resolution process will not also act as a Title IX Investigator should the same complainant(s) and respondent(s) request an investigatory process in addition to an informal resolution process.

Likewise, the Title IX Coordinator will not act as Chair of the Grievance Review Board for a hearing.

In an effort to best serve the community needs and the sensitive nature of providing a resolution process for both the complainant and respondent, once a formal complaint has been provided and the resolution process requested, the Title IX Coordinator and/or designee initiates an anti-discrimination or bias review for the personnel required for participation. Those who conduct the investigation, provide facilitation of a resolution process, participate in a Grievance Review Board, or act as Chair (decision-maker) should be without a conflict of interest and anyone with a conflict of interest will be removed from the resolution process.

Informal Resolution Process

This process is not always an appropriate option for violations of the Interpersonal Violence, Harassment, Hazing, Sexual Assault and/or Stalking Policy

The Informal Resolution Process is a voluntary process within Messiah University's Interpersonal Violence and Sexual Misconduct Policy that is focused on providing remedies and supportive measures to both complainants and respondents. It is considered at the request of the complainant and requires approval by the Title IX Coordinator.

The informal resolution process is designed to eliminate the prohibited conduct, prevent its recurrence, and remedy its effects in a manner that meets the needs of the complainant while still maintaining the safety of the overall campus community.

1. The Associate Dean of Students and/or a designee will determine and schedule the appropriate meetings to discuss the allegation. Normally, this officer will meet separately with the complainant and the respondent; consult with other advisors as needed and determine a resolution based on these discussions.
2. If the resolution is agreed to by both the complainant and the respondent, the Associate Dean of Students and/or the Title IX Coordinator will follow up to ensure that the outcomes are met.
3. If the outcomes are not accepted by one or both parties, the resolution process will be assessed to move to an Investigative Resolution Process. Complainants will have the opportunity at any time to request an Investigative Resolution Process.

Supportive measures are made available to complainants choosing to pursue an Informal Resolution Process, and participating respondents.

Adaptable Resolution Process

This process is not always an appropriate option for violations of the Interpersonal Violence, Harassment, Hazing, Sexual Assault and/or Stalking Policy

The Adaptable Resolution Process is a voluntary process within Messiah University's Interpersonal Violence and Sexual Misconduct Policy that is grounded in Restorative Justice and allows respondents to accept responsibility for their behavior and/or potential harm. It is considered at the request of the complainant, the approval of the Title IX Coordinator, and the agreement of the respondent.

By fully participating in this process the respondent will not be charged with a violation of University Policy.

The adaptable resolution process is designed to eliminate the prohibited conduct, prevent its recurrence, and remedy its effects in a manner that meets the needs of the complainant while still maintaining the safety of the overall campus community.

The adaptable resolution process may only be used at the request of the complainant and at the agreement of both the complainant and respondent, under the direction of the Title IX Office. In order for the adaptable resolution process to be appropriate both parties must have an understanding and agree on the necessary elements of the process. Both the complainant and respondent will have to agree to the following terms should they wish to participate in the

alternative resolution process:

- Participation in this process is voluntary and either party can choose to end the process at any time prior to signing the resolution agreement;
- Mediation, even if voluntary, may not be appropriate or used in certain cases such as cases involving sexual assault;
- Both the complainant and respondent must participate in individual conference meetings with appropriate staff to learn more about the adaptable resolution process prior to participating;
- The process can only be used once and will not be considered if requested by a repeat respondent under the University's Interpersonal Violence and Sexual Misconduct Policy;
- The complainant and respondent must agree to all recommendations laid out in the formal agreement or the case reverts to an investigative resolution process;
- Information documented during this process can be subpoenaed if a criminal investigation is initiated at any time;
- Participation in this process does not constitute a responsible finding of a policy violation and therefore is not reflected on a student's disciplinary record;
- If the respondent is documented and found responsible for any violations in the future this agreement can be used only in the sanctioning phase; and
- The respondent may be charged with Failure to Comply with a Directive of a University Official for failure to meet the requirements laid out in the agreement.

In addition, the University reserves the right to deny, suspend or terminate this resolution option at any time, prior to both parties formally agreeing to the terms in the contract, and revert back to the investigative resolution process.

The Associate Dean of Students and/or the Title IX Coordinator and/or a designee will determine and schedule the appropriate meetings to discuss the allegation. Normally, this officer will meet separately with the complainant and the respondent; consult with other advisors as needed and determine a resolution based on these discussions.

If the resolution is agreed to by both the complainant and the respondent, the Associate Dean of Students and/or the Title IX Coordinator and/or designee will follow up to ensure that the outcomes are met.

If the outcomes are not accepted by one or both parties, the resolution process will be assessed to move to an Investigative Resolution Process. Complainants will have the opportunity at any time to request an Investigative Resolution Process.

Supportive measures are made available to complainants choosing to pursue an Adaptable Resolution Process, and participating respondents.

Grievance Review Board

The Grievance Review Board is a University hearing board trained to respond to community conduct violations, grievances, and violations of the Sexual Misconduct and Interpersonal Violence Policy, including Title IX Misconduct.

This board is comprised of a minimum of 6 members, representative of University staff, faculty, and administrators. The members of the GRB are convened in discrete committees, according to due process of conduct hearing and appeal.

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The hearing subcommittee is comprised of a minimum of 3 GRB members and a Chair (decision-maker). The appeal subcommittee is comprised of a minimum of 3 GRB members and a Chair (decision-maker).

GRB members do not serve simultaneously on both the hearing and appeal subcommittees during any given case, but may rotate between committees on separate cases. If there is a conflict of interest for a GRB member or a specific, viable request to withdraw from a particular case, the GRB in question is excused from that proceeding.

Investigative Resolution Process

The goal of the grievance process is to provide complainants with a process that is reparative, fair and facilitates a sense of safety and personal justice. Where appropriate, the process should also support a behavioral change in the respondent. Once the University receives a formal complaint of a violation of this policy and a request for an Investigative Resolution Process, the University will conduct an investigation.

1. The complainant will file a formal complaint. This can be done through one of the following individuals/departments:

Amanda Coffey, Title IX Coordinator, VP for Human Resources and Compliance
Old Main 2nd Floor
717-796-5300
ACoffey@messiah.edu

Doug Wood, Associate Dean of Students, Title IX Deputy Coordinator
Eisenhower Campus Center 205
717-796-1800 ext. 3200
DWood@messiah.edu

Cindy Burger, Director of Safety, Title IX Deputy Coordinator
Staff in the Department of Safety
Greenbriar Building
717-691-6005 (or ext. 6005 on campus)
Emergency: 717-796-1800 ext. 6565 (or just ext. 6565 on campus)

Brooke Good, Head Coach, Asst. Athletics Director, Title IX Deputy Investigator
Sollenberger Sports Center, Suite 4501
good@messiah.edu, 717-796-1800 ext. 7359

Hannah McBride, Coordinator for Interpersonal Violence Prevention & Education
Old Main 2nd Floor
717-796-1800, ext. 2608
hmcbride@messiah.edu

A formal complaint constitutes any written notification by a complainant to the professional staff listed above, signed by the complainant and the Title IX Coordinator, indicating interest in pursuing a non-confidential resolution process at the University.

2. The respondent is notified of the complaint and provided with the complaint statement for review. The respondent's response is documented. The respondent is provided with an opportunity to either approve or correct the response statement.
3. In response to the formal complaint, an investigation will begin. Two of the University investigators/Title IX Deputy Coordinators will serve as investigators at the approval of the Title IX Coordinator. The investigation will include interviewing the complainant and the respondent in separate interviews. During this process, the investigators will advise both the complainant and the respondent that they may request to have a support person present. The investigation may also include interviewing other individuals. 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.

The complainant always has the right to decline to participate in an investigation. However, should another individual who has been invited to participate in the investigation refuse or fail to cooperate fully with an investigation, they may be subject to disciplinary action, which may include suspension of enrollment.

4. The investigators will share preliminary findings and all evidence with the Title IX team, hearing sub-committee of the GRB, and all parties involved.
5. All parties have the ability to provide written statements within ten (10) business days that include additional information in response to these initial findings to further the investigation process.
6. Additional inquiries made if necessary by investigator(s).
7. The hearing subcommittee of the GRB may request and receive education relevant to the content of the allegation under consideration via the Chair (decision-maker).
8. At the conclusion of the investigation, the hearing subcommittee of the GRB will convene. The GRB is responsible for reviewing all materials and determining outcomes. These outcomes will be rendered in writing with recommendations for resolution and sanction. This statement of outcomes will be provided to both the complainant(s) and the respondent(s), simultaneously.
 - a. Determination of responsibility will be made based on a preponderance of the credible evidence (defined as whether it is more likely than not that the respondent is responsible for the alleged violation.) The credibility of the evidence (firsthand knowledge, corroborating witnesses, consistency, etc.) is considered seriously in the review of the investigation.
 - b. The Grievance Review Board Chair's written decision confirmed by the Title IX Coordinator and/or designee will reflect either a determination that the allegations cannot be substantiated, or a determination that they can be substantiated and the terms of the prescribed resolution including any disciplinary action deemed appropriate.
9. All parties are provided with the opportunity to review the determination and recommendations for sanctions.

10. The response of all parties is documented. Both the complainant and the respondent are provided with an opportunity to approve or appeal the outcome. Specific appeal criteria must be met.

See Appeal Process below.

11. If any party chooses to appeal the outcome, they must file a written statement of appeal within ten (10) business days, asserting their reasons for appeal and any new evidence to be taken into account.

12. The other party/parties then has/have an opportunity to review the appeal and offer a written statement in response.

13. Both the appeal and response, along with the initial investigation information, outcomes and sanctions, will be given to the appeal subcommittee of the GRB for consideration. Absent a procedural error or new evidence, the determination of responsibility cannot be overturned. Only severity of sanctions may be subject to alteration.

14. The appeal subcommittee of the GRB will then make the final determination of outcomes based on all information.

15. The complainant and respondent parties will be notified of the final outcomes and sanctions.

In the investigatory process the University investigators are responsible for the following:

- a. Meeting with both parties.
- b. Establishing an appropriate timeline and investigatory partner(s) for processing the grievance.
- c. Meeting with resource representatives.
- d. Organizing, implementing, and/or partnering in 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.
- e. Interviewing persons believed to have relevant information.
- f. Reviewing findings with the Vice Provost / Dean of Students, Title IX Coordinator and resource representatives.
- g. Rendering and/or reviewing a written decision and resolution recommendation with investigatory partner(s).
- h. Closing and retaining the investigation file.

Title IX Resolution Process

The goal of the Title IX Resolution Process is to provide participants with a process that is reparative, fair, and facilitates a sense of safety and personal justice. Once the University receives a formal complaint of a violation of this policy and a request for an Investigative Resolution Process, the University will conduct an investigation and assess whether or not the hearing process will meet the standards for Title IX Misconduct, in which case the proceedings follow our investigative model with the addition of Title IX specified hearing components.

- 1.** The complainant will file a formal complaint. This can be done through one of the following individuals/departments:

Amanda Coffey, Title IX Coordinator, VP for Human Resources and Compliance
Old Main 2nd Floor
717-796-5300
ACoffey@messiah.edu

Doug Wood, Associate Dean of Students, Title IX Deputy Coordinator
Eisenhower Campus Center 205
717-796-1800 ext. 3200
DWood@messiah.edu

Cindy Burger, Director of Safety, Title IX Deputy Coordinator
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Brooke Good, Head Coach, Asst. Athletics Director, Title IX Deputy Investigator
Sollenberger Sports Center, Suite 4501
good@messiah.edu, 717-796-1800 ext. 7359

Hannah McBride, Coordinator for Interpersonal Violence Prevention & Education
Old Main 2nd Floor
717-796-1800, ext. 2608
hmcbride@messiah.edu

A formal complaint constitutes any written notification by a complainant to the professional staff listed above, signed by the complainant and the Title IX Coordinator, indicating interest in pursuing a non-confidential resolution process at the University.

2. The respondent is notified of the complaint and provided with the complaint statement for review. The respondent's response is documented. The respondent is provided with an opportunity to either approve or correct the response statement.
3. In response to the formal complaint, an investigation will begin. Two of the University investigators/Title IX Deputy Coordinators will serve as investigators at the approval of the Title IX Coordinator. The investigation will include interviewing the complainant and the respondent in separate interviews. During this process, the investigators will advise both the complainant and the respondent that they may request to have a support person present. The investigation may also include interviewing other individuals. 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.

The complainant always has the right to decline to participate in an investigation. However, should another individual who has been invited to participate in the investigation refuse or fail to cooperate fully with an investigation, they may be subject to disciplinary action, which may include suspension of enrollment.

4. The investigators will share preliminary findings and all evidence with the Title IX Coordinator, hearing sub-committee of the GRB, and all parties involved.
5. All parties have the ability to provide written statements within ten (10) business days that include additional information in response to these initial findings to further the investigation process.
6. Additional inquiries made if necessary by investigator(s).
7. The hearing subcommittee of the GRB may request and receive education relevant to the content of the allegation under consideration via the Chair (decision-maker).
8. At the conclusion of the investigation, the hearing subcommittee of the GRB will convene for a live hearing.

- a. The complainant and respondent will each be permitted the presence an advisor of their choice (who may be an attorney, but need not be) in their hearing, for the intention of providing cross-examination via the Chair (decision-maker) in the hearing. The Chair will determine relevancy of the advisor's cross-examination and may choose to allow or disallow the question(s) to be put to the opposing party.

If a complainant or respondent does not provide their own advisor, they have the right to be provided an approved University advisor at no fee or charge to the complainant or respondent.

- b. In the evaluation of question relevancy, the provision of Rape Shield Protections for Complainants deems questions and evidence regarding the complainant's prior sexual behavior irrelevant (unless used to prove someone responsible other than the respondent or to prove consent).

- c. At the request of either party, or the discretion of the University, the University will provide for the entire live hearing (including cross-examination) to occur in separate spaces, utilizing technology for parties to see and hear one another but maintain physical distance.

- d. If a party or witness does not attend the live hearing, or does not submit to cross-examination at the live hearing, the GRB and the Chair (decision-maker) must not rely on any statement of that party or witness in providing a determination, nor draw any inference regarding responsibility based on the absence of participation by that party or witness.

- e. The hearing will be audio or audio visually recorded and the recording retained.

9. The GRB is responsible for reviewing all materials and determining outcomes. These outcomes will be rendered in writing with recommendations for resolution and sanction. This statement of outcomes will be provided to both the complainant(s) and the respondent(s), simultaneously.

- a. Determination of responsibility will be made based on a preponderance of the credible evidence (defined as whether it is more likely than not that the respondent is responsible for the alleged violation.) The credibility of the evidence (firsthand knowledge, corroborating witnesses, consistency, etc.) is considered seriously in the review of the investigation.

b. The Grievance Review Board Chair's written decision confirmed by the Title IX Coordinator and/or designee will reflect either a determination that the allegations cannot be substantiated, or a determination that they can be substantiated and the terms of the prescribed resolution including any disciplinary action deemed appropriate.

10. All parties are provided with the opportunity to review the determination and recommendations for sanctions. All parties are informed the hearing recording will be made available to them at their request.
11. The response of all parties is documented. Both the complainant and the respondent are provided with an opportunity to approve or appeal the outcome. Specific appeal criteria must be met. *See Appeal Process below.*
12. If a violation is determined and any party chooses to appeal the outcome, they must file a written statement of appeal within ten (10) business days, asserting their reasons for appeal and any new evidence to be taken into account.
12. The other party/parties then has/have an opportunity to review the appeal and offer a written statement in response.
14. Both the appeal and response, along with the initial investigation information, outcomes and sanctions, will be given to the appeal subcommittee of the GRB for consideration. Absent a procedural error or new evidence, the determination of responsibility cannot be overturned. Only severity of sanctions may be subject to alteration.
15. The appeal subcommittee of the GRB will then make the final determination of outcomes based on all information.
16. The complainant and respondent parties will be notified of the final outcomes and sanctions.

In the Title IX investigatory process the University investigators are responsible for the following:

- a. Meeting with both parties.
- b. Establishing an appropriate timeline and investigatory partner(s) for processing the grievance.
- c. Meeting with resource representatives.
- d. Organizing, implementing, and/or partnering in 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.
- e. Interviewing persons believed to have relevant information.
- f. Reviewing findings with the Vice Provost / Dean of Students, Title IX Coordinator and resource representatives.
- g. Rendering and/or reviewing a written decision and resolution recommendation with investigatory partner(s).
- h. Closing and retaining the investigation file.

Mandatory and Discretionary Dismissals

The May 2020 Title IX regulations define instances where the Title IX Coordinator must or may dismiss a Title IX Resolution process for a formal complaint.

The following outlines circumstances for both mandatory and discretionary dismissals:

1. The Title IX Coordinator is obligated to dismiss a formal Title IX complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:
 - The conduct alleged in the formal complaint would not constitute sexual harassment as defined in the Policy hereinabove, even if proved; and/or
 - The conduct did not occur in an educational program or activity controlled by Messiah University (including buildings or property controlled by recognized student organizations), and/or Messiah University does not have control of the Respondent; and/or
 - The conduct did not occur against a person in the United States; and/or
 - At the time of filing a formal complaint, a Complainant is not participating in or attempting to participate in the education program or activity of the recipient.
2. The Title IX Coordinator has the discretion to dismiss a formal Title IX complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:
 - A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; or
 - The Respondent is no longer enrolled in or employed by the recipient; or
 - Specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon initiating either mandatory or discretionary dismissal, for any reason, the Title IX Coordinator will promptly send written notice of the dismissal and the rationale for doing so. The letter will be sent simultaneously to the parties.

This dismissal decision is appealable by any participating party under the procedures for grievance appeal listed below. The decision not to dismiss is also appealable by any party claiming that a dismissal is appropriate.

If a complainant or respondent would like to appeal, they must submit a request for appeal in writing to the Title IX Coordinator within five (5) days of the decision to dismiss (or the decision not to dismiss). If they do not submit their request for appeal within the five (5) days, they will lose their right to appeal.

The request for appeal will be reviewed by the appeal subcommittee of the Grievance Review Board who will communicate the decision to grant or deny the appeal to the requesting party within five (5) days of the request for appeal being received by the appeal subcommittee; the Chair (decision-maker) will provide the other party (parties) and the Title IX Coordinator a copy of the appeal decision.

Sanctions

The University considers violations of this policy to be extremely serious violations and may be subject to SUSPENSION and/or EXPULSION from the University.

The scope for disciplinary sanctions includes, but is not limited to, those described below. Additional or modified sanctions may be imposed at the discretion of the Associate Dean of Students, Title IX

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Coordinator and/or Grievance Review Board. The application of sanctions will reflect the seriousness of the incident and the student's history of previous violations:

1. **Letter of Reprimand or Warning:** Written documentation of inappropriate behaviors or attitudes with a temporary record kept in the student's file.
2. **Loss of Privilege:** Loss of a privilege of participating in a University activity, in registration of vehicle, in visitation, or other matter. Graduating senior students who violate University policies prior to graduation may lose the privilege of participating in senior activities and commencement ceremonies.
3. **Developmental/Educational Assignments:** May include, but are not limited to: attendance at educational programs, personal essay, and written reflection on issues relevant to one's discipline case or involvement in a mentoring relationship.
4. **Fines:** A monetary fee imposed to deter and prevent activity detrimental to the community.
5. **Restitution:** A monetary fee imposed to compensate for loss, damage, or injury. This may take the form of appropriate service, monetary, or material replacement.
6. **Disciplinary Probation:** A strong written reprimand. Notification is made to appropriate University officials: University-based financial aid may be reviewed, and students in leadership positions (e.g., residence staff, SGA leaders, captains of intercollegiate athletics teams, ministry team leaders) will be required to step down from their positions of leadership. Students in certain majors or programs will be subject to additional review by faculty within their academic discipline (e.g. Social Work, Teacher Education Program, Nursing, etc.). Students who have applied to study abroad programs and/or cross-cultural courses will be subject to further review by appropriate University personnel. Additionally, residential students who are on disciplinary probation within 6 months prior to the off-campus housing application deadline are not eligible to apply to live off campus.
7. **Withholding degree:** The University may withhold awarding a degree otherwise earned until completion of the process set forth in the student disciplinary procedures, including the completion of sanctions imposed.
8. **Suspension:** Involuntary separation of the student from the University for a specified period of time. For suspensions of less than one semester, the suspended student is normally required to spend the period of suspension at home. A permanent record is kept in University disciplinary files. Academic advisors, residence directors, classroom instructors, and parents are normally notified. For short-term suspensions which permit the student to complete the semester, no refunds are issued for days missed. As determined by the Community Standards Committee, exams or assignments which are due in this period of time will be considered "0's" and no credit will be given. Although absence from class and chapel is not excused, individual professors may take the initiative to permit students to make up work missed. For suspensions where the student is not permitted to complete the semester, any refunds are issued in accordance with the withdrawal policy. For more information please refer to the following web address:
http://www.messiah.edu/offices/business/student_accounts/index.html#refund.
9. **Expulsion:** Permanent separation of the student from the University. A permanent record will be

kept in University disciplinary and academic files.

Grievance Appeal Process

The Grievance Process includes an option to appeal the determination.

One or more of the following appeal criteria must be cited in order for the appeal to be considered:

1. A procedural error or irregularity materially affected the outcome(s)
2. Previously unavailable evidence is produced that could impact the outcome(s); and/or
3. The investigators or Title IX personnel had conflict of interest or bias that impacted the outcome(s)

If either the complainant or the respondent has the ability to produce new evidence, believes a procedural error has occurred or believes the outcomes were impacted by a conflict of interest or bias, they may prepare a written summary of appeal and request a Grievance Review Board examination and hearing in response to the investigation determination. This request must be made through the Associate Dean of Students within ten (10) business days of the date of the written decision.

The Associate Dean of Students will confirm receipt of the written statement of appeal within five (5) business days. The complainant or respondent will be notified at that time that an appeal has been received, and they will be notified of the written statement. The opposing party will then have an opportunity to offer a written statement in response to the appeal statement.

The Associate Dean and/or the Title IX Coordinator will convene the appeal subcommittee of the Grievance Review Board and schedule an examination of the matter (which may include a review of the written summary of the complaint and response, interviews with the people involved, and further investigation if necessary), and hearing. The date, time, and location of the hearing will be communicated to both parties.

The complainant and respondent may be assisted during resolution hearings and related meetings by a support person of their choice. The complainant and respondent may present witnesses and may produce other evidence for consideration by the appeal subcommittee of the Grievance Review Board. The complainant and respondent are responsible for presenting evidence on their own behalf. Support persons may speak privately to their party during the proceeding. Either party may request a brief recess to consult with their support person which will be granted at the discretion of the Assistant Dean of Students, Title IX Coordinator or designee. Support persons for the respondent and complainant may not present evidence or question witnesses.

In the event that an appeal hearing is granted during a Title IX Misconduct investigative process, the complainant and respondent will each be permitted the presence an advisor of their choice (who may be an attorney, but need not be) in their appeal hearing, for the intention of providing cross-examination via the Chair (decision-maker) in the hearing. The Chair will determine relevancy of the advisor's cross-examination and may choose to allow or disallow the question(s) to be put to the opposing party.

If a complainant or respondent does not provide their own advisor, they have the right to be provided an approved University advisor.

Evidence to be presented by complainant(s) and respondent(s) during any hearing on the charges must be shared with the opposing party at least ten (10) business days in advance of the scheduled hearing. The Chair (decision-maker) presiding at and/or hearing the case may exclude evidence that has not been shared or adjourn the hearing to afford all parties the opportunity to review evidence to be presented during the hearing. The Chair (decision-maker) presiding at and/or hearing the case will make the final decision relating to the admissibility of all evidence.

Absent a procedural error or new evidence, the determination of responsibility cannot be overturned. Only severity of sanctions may be subject to alterations.

The appeal subcommittee of the Grievance Review Board will inform the individuals involved of its decision concerning the appeal and any recommendations within seven (7) business days of the conclusion of the deliberative process. The decision of the Grievance Review Board will be final. Copies of the decision will be shared with both parties, all investigators, the Title IX Coordinator, and the Vice Provost for Student Success and Engagement and the Dean of Students.

Appendix A – Definitions of Terms

Advisor:

Advisor refers to an individual allowed (or provided) to a complainant or respondent only in the Title IX Misconduct hearing process for the purpose of providing questions for cross-examination. An advisor may be an attorney, but need not be.

Amnesty:

Amnesty refers to an exemption from institutional disciplinary or state legal proceedings in a violation of the student code of conduct; amnesty offers punitive immunity based on medical and/or safety concerns for the community members reporting and/or affected. Students, regardless of age, will be granted immunity from university disciplinary proceedings for the violation of community conduct standards if the Department of Safety, Residence Life staff or other University official becomes aware of the breach in community behavior standards because the individual was seeking medical assistance for someone else.

Refer to policy for full description of qualifications for granting amnesty.

Bystander Intervention:

Research on the causes of sexual violence and evaluation of prevention efforts indicate that bystanders (also referred to as witnesses, defenders, or up-standers) are a key element in preventing sexual violence. A sense of responsibility gives the bystander motivation to step in and take action. Bystander intervention typically needs to be actively cultivated as a social norm on university and university campuses through education programs and peer mentoring.

Coercion:

Coercion exists when a sexual initiator engages in sexually pressuring and/or oppressive behavior that violates the norms of the community, such that the application of pressure or oppression causes the recipient of the behavior to engage in unwanted sexual behavior. Coercion may be differentiated from seduction by the repetition of the coercive activity beyond what is reasonable, the degree of pressure applied, environmental factors such as isolation, and the initiator's knowledge that the pressure is unwanted.

Complainant:

Complainant is used to refer to a member of the Messiah University community who has potentially experienced harm or prohibited conduct and wishes to participate in a process to address the report of this harm or prohibited conduct.

In Title IX Misconduct, a complainant is specifically someone who is alleged to be the victim of conduct that could constitute sexual harassment. In some instances, the person who is reported to have experienced harm or prohibited conduct may not wish to participate in a resolution process. In such cases, under Title IX Misconduct only, a third party *may* report on behalf of the complainant, becoming the complainant in the resolution process. This includes instances where the University may choose to pursue a resolution process under this policy without a participating complainant.

Consent:

Effective consent is informed, freely, and actively given mutually understandable words or actions which indicate a willingness to participate in mutually agreed upon sexual activity. **Consent may never be given by minors (in PA, those not yet sixteen are considered minors), mentally disabled persons** and those who are incapacitated as a result of alcohol or other drug consumption (voluntary or involuntary) or those who are unconscious, unaware or otherwise physically helpless.

Some indicators that an individual is incapacitated due to intoxication may include, but are not limited to, vomiting, unresponsiveness, inability to communicate coherently, inability to dress/undress without assistance, inability to walk without assistance, slurred speech, loss of coordination, or inability to perform other physical or cognitive tasks without assistance.

Consent as a result of coercion, intimidation, threat of force, or force itself is not effective consent. Silence, without actions evidencing permission, or non-communication should never be interpreted as effective consent. The responsibility of obtaining consent rests with the person initiating sexual activity. The initiator of the sexual activity will be found in violation of this policy if he or she did not receive effective consent.

Course of Conduct:

A pattern of actions composed of more than one act over a period of time, however short, evidencing a continuity of conduct. The term includes lewd, lascivious, threatening or obscene words, language, drawings, caricatures, or actions, either in person or anonymously. Acts indicating a course of conduct which occur in more than one jurisdiction may be used by any other jurisdiction in which an act occurred as evidence of a continuing pattern of conduct or a course of conduct. Examples of a course of conduct can include:

1. Following or lying in wait for the complainant
2. Repeated unwanted, intrusive, and frightening communications from the perpetrator by phone, mail, and/or e-mail
3. Damaging the complainant's property
4. Making direct or indirect threats to harm the complainant, the complainant's children, relatives, friends, or pets
5. Repeatedly sending the complainant unwanted gifts
6. Harassment through the Internet, known as cyber-stalking, online stalking, or Internet stalking
7. Securing personal information about the complainant by: accessing public records (land records, phone listings, and driver or voter registration), using Internet search services, hiring private investigators, contacting friends, family, work, or neighbors, going through the complainant's garbage, following the complainant, etc.

Dating Violence (Federal Clery Act Definition):

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant.

- i. The existence of such a relationship shall be based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- ii. For the purposes of this definition—
 - A) Dating Violence includes, but is not limited to, sexual and/or physical abuse or the threat of such abuse.
 - B) Dating violence does not include acts covered under the definition of domestic violence.
- iii. For the purposes of complying with the requirements of this section and §668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

The state of PA does not have a definition of dating violence.

Deviate Sexual Intercourse:

Deviate sexual intercourse refers to sexual conduct between persons consisting of contact between the sex organs of one person and the mouth or anus of another. There are state specific definitions for the term.

According to 18 Pa.C.S. § 3101 "deviate sexual intercourse" means sexual intercourse per os [mouth] or per anus between human beings and any form of sexual intercourse with an animal. The term also includes penetration, however slight, of the genitals or anus of another person with a foreign object for any purpose other than good faith medical, hygienic or law enforcement procedures.

Domestic Violence (Federal Clery Act Definition):

- i. A Felony or misdemeanor crime of violence committed—
 - A) By a current or former spouse or intimate partner of the complainant;
 - B) By a person with whom the complainant shares a child in common;
 - C) By a person who is cohabitating with, or has cohabitated with, the complainant as a spouse or intimate partner;
 - D) By a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
 - E) By any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- ii. For the purposes of complying with the requirements of this section and §668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

The state of PA does not have a definition of domestic violence.

However, under 42 USC section 13925, domestic violence includes violence committed by a current or former spouse or intimate partner of the complainant, by a person with whom the complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the complainant as a spouse, by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Fondling:

The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the complainant, including instances where the complainant is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

Harassment:

Policies, behaviors, attitudes and practices related to personal characteristics of an individual or group that have the purpose or effect of creating an intimidating, offensive, isolating and/or degrading environment for that individual or group. This includes (but is not limited to) the use of images, language or actions that foster, condition or tolerate discrimination based on skin color, race, culture, religion, disability, gender, personal choices and/or national/ethnic origin.

Whether intentional or unintentional, any such conduct will be considered a violation of human dignity, addressing the expectation of consent in all interpersonal conduct and communication, including the opportunity to express consent or lack thereof.

Incapacitated/Intoxicated:

Incapacitated means the physical and/or mental inability to make informed, rational judgments. States of incapacitation include, without limitation, sleep, blackouts, and flashbacks. Where alcohol [or other drug] is involved, one does not have to be intoxicated or drunk to be considered incapacitated. Rather, incapacitation is determined by how the alcohol consumed affects a person's decision-making capacity, awareness of consequences, and ability to make informed judgments. The question is whether the respondent student knew, or a sober, reasonable person in the position of the respondent student should have known, that the complainant was incapacitated. Because incapacitation may be difficult to discern, students are strongly encouraged to err on the side of caution; i.e., when in doubt, assume that another person is incapacitated and, therefore, unable to give effective consent. Being intoxicated or drunk is not a defense to a complaint of sexual misconduct under this policy.

Incest:

Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

1. Who is or has been in a social relationship of a romantic or intimate nature with the complainant; and
2. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - a. The length of the relationship;
 - b. The type of relationship;
 - c. The frequency of interaction between the persons involved in the relationship.

Interpersonal violence (Center for Disease Control and Prevention Definition):

The intentional use of physical force or power, threatened or actual, against another person or against a group or community that results in or has a high likelihood of resulting in injury, death, psychological harm, mal-development, or deprivation. Includes all forms of sexual misconduct and harm, as well as hazing, dating and domestic violence.

Minor:

Under Pennsylvania law, a minor is defined as anyone under the age of 16. **Consent may never be given by a minor.**

Nudity/Public Indecency (Title 18: Chapter 31, Section 3127 and Chapter 59, Section 5901):

Messiah University adheres to the Pennsylvania Crimes Code prohibiting public indecency, indecent exposure, and open lewdness. As a Christian community, we desire to promote behavior that is consistent with finding the right balance between personal freedom and community obligation. Therefore, nudity outside of the student's bedroom, restroom, or locker room, is considered public nudity and will not be tolerated. Any student engaging in public nudity will be subject to disciplinary action.

Rape (Title 18, Chapter 31, Subsection 3121):

A person who engages in sexual intercourse (however slight) with a complainant:

1. By forcible compulsion.
2. By threat of forcible compulsion that would prevent resistance by a person of reasonable resolution.
3. Who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring.

4. Where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance.
Where the person has a mental disability or difference which renders the complainant incapable of consent.

Respondent:

Respondent refers to an individual (or individuals) that have been accused of causing harm under the Messiah University Interpersonal Violence and Sexual Misconduct Policy.

In Title IX Misconduct, a respondent is specifically someone who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Sexual Assault (Federal Clery Act Definition):

An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting (UCR) program. Per the National Incident-Based Reporting System User Manual from the FBI UCR Program, a sex offense is "any sexual act directed against another person, without the consent of the complainant, including instances where the complainant is incapable of giving consent."

The state of PA defines sexual assault as follows:

- Rape – Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the complainant. Statutory offenses (no force used – complainant under age of consent) are excluded.

Sexual Exploitation:

Sexual exploitation occurs when an individual takes non-consensual, unjust, or abusive sexual advantage of another for his/her own advantage or to benefit others. Examples include, but are not limited to, non-consensual audio or video recording of sexual activity, streaming, voyeurism, and prostitution of self or others.

Sexual Harassment:

Any type of sexually oriented conduct, whether intentional or not, that is unwelcome and has the purpose or effect of creating an employment or academic environment that is hostile, offensive, or coercive to a reasonable woman or man. Includes any unwelcome sexual advances or threats, deliberate or careless use of offensive or demeaning terms that have sexual connotations or are gender-based, repeated and unwelcome requests for sexual favors or a romantic relationship, repeated and unwelcome letters, phone calls, or e-mails of a sexual or romantic nature, sexually motivated physical contact, or other verbal, electronic, or physical conduct or communication of a sexual nature.

Under Title IX Misconduct, Sexual Harassment is defined as any instance of *quid pro quo* harassment by an employee of the University; or when a student, employee, or third party engages in unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies another person equal access to a University program or activity; or any instance of sexual assault, dating violence, domestic violence, or stalking.

Reported sexual harassment that meets this standard will have access to a Title IX resolution process (see below, under Title IX Misconduct).

Sexual Intercourse:

In addition to its ordinary meaning, includes intercourse per os [mouth] or per anus, with some penetration however slight; emission is not required. Sexual penetration includes vaginal or anal penetration by a penis, object, tongue or finger or oral copulation by mouth to genital contact or genital to mouth contact.

Sexual Misconduct:

The following lists behaviors that constitute sexual misconduct:

1. Any intentional indecent contact, however slight, with any object without effective consent. Indecent Contact includes any bodily contact with the breasts, groin, genitals, mouth or other bodily orifice of another or any other bodily contact in a sexual manner.
2. Any unwanted inappropriate disrobing of another person or purposeful exposure of one's genitals to another without one's consent.
3. Any attempt to force any other person to engage in sexual activity of any kind without his or her consent.

Sexually Inappropriate Behavior:

Includes behavior that violates the Messiah University Code of Conduct which may not rise to the level of a Title IX offense, or any of the above definitions but is still sexual in nature and causes alarm, concern, and is inappropriate in nature and that violates the sanctity of the human body and spirit.

Stalking (Federal Clery Act Definition):

- i. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—
 - A) Fear for the person's safety or the safety of others; or
 - B) Suffer substantial emotional distress.
 - ii. For the purposes of this definition—
 - A) *Course of conduct* means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.
 - B) *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the complainant.
 - C) *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
 - iii. For the purposes of complying with the requirements of this section and section 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.
- The state of PA defines stalking when a person either:
 - (1) engages in a course of conduct or repeatedly commits acts toward another person, including following the person without proper authority, under circumstances which demonstrate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person; or
 - (2) engages in a course of conduct or repeatedly communicates to another person under circumstances which demonstrate or communicate either an intent to place such other

person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person.

Statutory Rape:

Sexual intercourse with a person who is under the statutory age of consent.

Title IX Misconduct:

When reported behavior meets the following definition, it may constitute Title IX Misconduct and will be addressed under the procedures applicable to Title IX Misconduct, even if the behavior also may constitute Interpersonal Violence and/or Sexual Misconduct.

If at any point the University determines that the matter does not meet the definition of Title IX Misconduct, the matter may continue to be addressed under the University's Policy as Interpersonal Violence and/or Sexual Misconduct.

Conversely, if the University is investigating reported Interpersonal Violence and/or Sexual Misconduct and receives information that indicates the behavior at issue meets the definition of Title IX Misconduct, the matter will continue under the procedures applicable to Title IX Misconduct.

In order for a reported behavior to be considered for Title IX Misconduct resolution it must meet the following:

- Occurs in the United States;
- Occurs in a University Program or Activity; and
- A Formal Complaint (non-anonymous) must also be filed.

Is conduct on the basis of sex in which:

- An Employee conditions the provision of a University aid, benefit, or service on an individual's participation in unwelcome sexual conduct;
- A Student, Employee, or Third Party engages in unwelcome conduct determined by a Reasonable Person to be so severe, pervasive, and objectively offensive that it effectively denies another person equal access to a University Program or Activity; or
- A Student, Employee, or Third Party engages in: Sex or Gender-Based Stalking (Stalking defined above); Dating Violence (defined above); Domestic Violence (defined above); or Sexual Assault (defined above).

Appendix B – Complainant’s Rights

Any student who believes they have experienced discrimination, including any type of interpersonal violence, harassment, hazing, sexual assault or stalking is urged to report the matter and students who report the matter have certain rights under Title IX and VAWA.

Right to Choose:

1. You have the right to choose when and where you report a violation of the Interpersonal Violence and Sexual Misconduct Policy.
2. You have the right to information about services designed to assist you in the reporting and recovery process.
3. You have the right to speak confidentially to an advocate, counselor or pastor.
4. You have the right to seek or have sought on your behalf counseling and medical attention at the Engle Center or elsewhere as needed—including at the nearest hospital emergency room.
5. You have the right to a support person to accompany you to all hearings and interviews.
6. You have the right to request that an advocate join you in attending appointments.
7. You have the right to an advisor of choice in a Title IX Misconduct hearing.

Right to Response:

1. You have the right to report a violation of the Interpersonal Violence and Sexual Misconduct Policy and have Messiah University investigate your complaint promptly.
2. You have the right to report the crime to the Department of Safety and/or to a law enforcement agency.
3. You have the right to obtain legal representation.

Right to Supportive Measures:

1. You have the right to receive reasonable measures of protection.
2. You have the right to request changes in your academic schedule, work schedule and/or location and residence hall or apartment.
3. You have the right to request that the University implement a “No Contact Directive” with the respondent.
4. You have the right to all University policies, including “amnesty” and “no retaliation.”
5. You have the right to a support person of your choice to be present.
6. You have the right to an accessible process; including accommodations to navigate the physical, emotional, and mental spaces an investigation requires.
7. You have the right to language translation services for materials, support services, or investigatory interactions.
8. You have the right to free medical exams or tests that are relevant such as rape kits, STI or pregnancy tests.
9. You have the right to free mental health services that are relevant, through the University or local advocacy centers (when available).

Right to a Reliable and Impartial Process:

1. You have the right to request the response process most appropriate for your own circumstances, including no investigatory process.
2. You have the right to be notified of the timeline for all major stages of the investigation.
3. You have the right to request the presence of, or interviews by, another investigator.
4. You have the right to present witnesses and evidence in support of your complaint.
5. You have the right to review any proceedings documented, including written findings of fact, transcripts or audio recordings.
6. You have the right to a resolution of your complaint based on what University officials believe is more likely than not to have happened based upon an investigation (this is called a preponderance-of-the-evidence standard of proof). Messiah University will not use a higher standard of proof.
7. You have the right to be informed of the outcome of any disciplinary proceeding held.
8. You have the right to be notified in writing of the outcome of your complaint and any appeal, including any sanctions that directly relate to you.
9. The appeal process is equally available for both parties.
10. You have the right to recover your losses—to the extent possible—through restitution and the return of property that was seized as evidence when it is no longer needed.

Appendix C – Respondent’s Rights

Any student who accused of discrimination, including any type of interpersonal violence, harassment, sexual assault or stalking is offered certain rights under Title IX and VAWA.

Right to Response:

1. You have the right to information about services designed to support you if you are accused of a violation of the Interpersonal Violence and Sexual Misconduct Policy.
2. You have the right to speak confidentially to a counselor or pastor.
3. You have the right to seek or have sought on your behalf counseling and medical attention at the Engle Center or elsewhere as needed—including at the nearest hospital emergency room.
4. You have the right to a support person to accompany you to all hearings and interviews.
5. You have the right to obtain legal representation.
6. You have a right to an advisor of choice in a Title IX Misconduct hearing.

Right to Supportive Measures:

1. You have the right to receive reasonable measures of protection.
2. You have the right to request changes in your academic schedule, work schedule and/or location and residence hall or apartment.
3. You have the right to request that the University implement a “No Contact Directive” with the complainant.
4. You have the right to a support person of your choice to be present.
5. You have the right to an accessible process; including accommodations to navigate the physical, emotional, and mental spaces an investigation requires.
6. You have the right to language translation services for materials, support services, or investigatory interactions.

Right to a Reliable and Impartial Process:

1. You have the right to be notified of the timeline for all major stages of the investigation.
2. You have the right to present witnesses and evidence in support of your defense.
3. You have the right to review any proceedings documented, including written findings of fact, transcripts or audio recordings.
4. You have the right to request the presence of, or interviews by, another investigator.
5. You have the right to a resolution process based on what University officials believe is more likely than not to have happened based upon an investigation (this is called a preponderance-of-the-evidence standard of proof). Messiah University will not use a higher standard of proof.
6. You have the right to be informed of the outcome of any disciplinary proceeding held.
7. You have the right to be notified in writing of the outcome of your case and any appeal, including any sanctions that directly relate to you.
8. The appeal process is equally available for both parties.
9. You have the right to recover your losses—to the extent possible—through restitution and the return of property that was seized as evidence when it is no longer needed.

Further information regarding student rights, services and links may be found in our Title IX Brochure at http://www.messiah.edu/documents/hr/compliance/title_ix_card.pdf.

Revised 8/2020