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 College policies prohibit all forms of power-based violence.

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 victim 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 college campuses—VAWA and Title IX are federal mandates that support our institution’s care for our community members.

Messiah College 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

**Title IX Deputy Coordinator**
Cindy Burger, Director of Investigations, Compliance & Training
Greenbriar Building
CBurger@messiah.edu, 717-691-6005

**Title IX Deputy Coordinator**
Brooke Good, Head Field Hockey Coach
Sollenberger Sports Center 162
good@messiah.edu, 717-796-1800 ext. 7359

Our Community Standard
Messiah College prohibits the offenses of interpersonal violence—including dating or domestic violence, harassment, 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 college community. Toward that end, Messiah College issues this statement of policy to inform the campus community of our programs to address interpersonal violence, harassment, sexual assault and stalking. Messiah College also affirms this statement of procedures for institutional disciplinary action in cases of alleged interpersonal violence, harassment, sexual assault and/or stalking, to be followed regardless of
whether the incident occurs on or off campus when it is reported to a College official. Messiah College's responsibilities to address such behavior are broader than the law enforcement classifications of crimes and therefore our policy uses broader definitions. 

_The College 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 College 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 College seeks to provide a consistent, caring, and timely response when a sexual assault or any violation of this policy occurs within our college community. Specifically, this policy defines the coordinated campus-wide efforts to provide an appropriate and effective institutional response to incidents of harassment, stalking, 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 college environment that expedites and encourages the prompt reporting of interpersonal violence.
- Facilitate the recovery of a victim of interpersonal violence by providing prompt and compassionate support services. The College provides crisis intervention, advocacy and referral services to students impacted by interpersonal violence.
- Investigate reports of interpersonal violence, harassment, sexual assault and/or stalking, promptly and thoroughly.
- Take timely and effective steps reasonably calculated to end the interpersonal violence, harassment, sexual assault and/or stalking, prevent its recurrence, and as appropriate, remedy its effects.
- Where appropriate, assist local law enforcement.

_Procedures for Victims of Interpersonal Violence, Harassment, Sexual Assault and/or Stalking_

All victims of interpersonal violence, harassment, 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 victims at the hospital or on campus; advocates are equipped to explain
procedures and rights within the medical examination and criminal investigation process to assist victims in choosing a course of action.

After an incident of interpersonal violence and/or sexual assault, victims 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 college encompasses, has established an anonymous reporting protocol for victims of sexual assault. “Anonymous Reporting” is the name for the forensic evidence collected during a sexual assault examination for a victim who chooses to remain anonymous. An Anonymous Report enables a victim to have forensic evidence collected without revealing identifying information. Victims 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 victims 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 victim 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.

It is important that a victim 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 victims do not opt for forensic evidence collection.

Victims 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 College 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 victim chooses to not make a complaint regarding an incident, he or she should still consider preserving evidence in the event that he or she decides to report the incident to law enforcement or the College at a later date.
The Institution’s Responsibilities and Victim Rights to Protective Measures

Messiah College 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 victim may then meet with the Department of Safety 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 College cannot apply for a legal order of protection, no contact order or restraining order for a victim from the applicable jurisdiction(s); this is the victim’s responsibility.

In Pennsylvania, a victim 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 victim’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 victim 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 Department of Safety will assist victims 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 Department of Safety will assist victims 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.

Campus Issued Protection and Accommodations

While not the same as a state-mandated protection order, the College can issue a “No Contact Directive”. 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 Directive” 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 College receives a report that an institutional “No Contact Directive” has been violated, the College 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 Directive”.

If the respondent is not a Messiah College community member, the College will work with local police departments to pursue other measures of protection.

Messiah College will provide victims with prompt protective measures, even before an investigation is completed. Upon receipt of a report of interpersonal violence, harassment, sexual assault and/or stalking, Messiah College is prepared to implement measures that facilitate the victim’s sense of safety and will provide written notification to students about accommodations available to them, including ones 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.

At the victim’s request, and to the extent of the victim’s cooperation and consent, College offices will work cooperatively to assist the victim in obtaining accommodations. If reasonably available, a victim may be offered changes to academic, living, working or transportation situations regardless of whether the victim chooses to report the crime to campus safety or local law enforcement. Some of the accommodations and protective measures available to victims 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

Protective measures for the victim may include changes or restrictions imposed on the respondent, such as:

- Change in residential assignment
- Campus restrictions
- Loss of Grantham Campus or Harrisburg / 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 protective measures

To receive assistance in obtaining such protective measures or to request accommodations, a victim should contact:

**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

Revised 9/2018
Messiah College has designated personnel who can help the victim to understand, evaluate and choose among the services outlined in this protocol, and help ensure continuity of services by offering follow-up contact. The victim 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 victims:

- Vice Provost/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
- VP of Human Resources and Compliance – Title IX Coordinator
- Resource Coordinator—Interpersonal Violence Prevention, Education and Response

**Additional Victim’s Rights**

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

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

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

*A comprehensive review of victim’s rights is found in Appendix B of this policy.*

**Amnesty**

While the College expects all students to behave in accordance with our community standards, health and safety of Messiah College students takes priority over conduct violations in the event of a medical emergency or severe safety concern, including instances of suspected, witnessed, or reported abuse, violence, and/or assault.
Likewise, students are encouraged to prioritize their health and safety or the health and safety of others above all other concerns when reporting an emergency.

Students, regardless of age, will be granted immunity from college disciplinary proceedings for the violation of community conduct standards if the Department of Safety, Residence Life staff or other College official becomes aware of the breech in community behavior standards because the individual was seeking 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 assistance until help arrives.

Amnesty includes, but is not limited to, alcohol possession and/or consumption, consensual sexual conduct, and/or inappropriate use of institutional property. Amnesty for drug use and/or possession may not apply in the event that law enforcement officials are contacted.

Amnesty will not be granted to perpetrators of abuse, violence, assault or egregious behavior to another person.

Both the individual in need of assistance and the individual seeking assistance may receive amnesty protection.

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

1. The only way College 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, or College administrators in good faith based on a reasonable belief that another person was in need of immediate attention and/or intervention to prevent death, serious injury, trauma or abuse.
2. The student reasonably believed she/he was the first person to make the emergency contact, whether to 911 call, or to Dispatch/Department of Safety, police or emergency services, and/or College administrators in order report that a person needed immediate attention or intervention to prevent death, serious injury, trauma or abuse.
3. The student provided his/her own name to the 911 operator or equivalent campus safety, administrator, police, or emergency officer.
4. The student remained with the person needing assistance until emergency health care providers or responders arrived and the need for his/her presence had ended.

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

**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 College 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 College 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 College 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 he/she complained. Likewise, asking a witness why he/she was willing to make a statement.
2. Asking a complainant to rescind his/her statement. Having friends ask the complainant to rescind his/her 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 Affairs, Human Resources or the Department of Safety.

**Statement on Confidentiality and Privacy**

Victims of interpersonal violence have the right to choose whether they share their experience in a formal process to gain resolution and support, or with a confidential resource that will not pursue a formal process without the victim’s request, but will still offer support.

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

Victims may request that directory information on file with the College 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 victim’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 victim and alleged perpetrator) to the Department of Safety, the Title IX Coordinator or a Deputy Coordinator.

A report to employees constitutes a report to the College and generally obligates the College 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—victim or respondent—involves 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. 5357)
- The College Pastor in the College Ministries Office (ext. 6520)
- A nurse in the Engle Health Center (ext. 6035)

Staff in the Engle Health Center 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 victims will be contained and/or released within any published record without the victim’s consent.

The College does not publish the name of crime victims or other identifiable information regarding victims 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, sexual assault and/or stalking, the name of the victim and other personally identifiable information about the victim 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 victim.

Members of the Engle Counseling/Health Services staff and pastoral counselors 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 college’s Annual Security and Fire Safety report. Please note the College 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 victim who reports confidentially to staff in the Counseling Center, Health Center or to a College Pastor needs to understand that, if the victim wants to maintain confidentiality, the College will be

Revised 9/2018
unable to conduct an investigation into the particular incident or pursue disciplinary action against the respondent.

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

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

If the College determines that the respondent poses a serious and immediate threat to the College community, College officials may be called upon to issue a timely warning to the community. Any such warning should not include any information that identifies the victim.

**Off-campus Counselors and Advocates**

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

Health care professionals may maintain levels of confidentiality unless law enforcement is 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:

<table>
<thead>
<tr>
<th><strong>OFF CAMPUS</strong></th>
<th><strong>Students</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Counseling:</strong></td>
<td>Messiah College Engle Health/Counseling Ctr.</td>
</tr>
<tr>
<td></td>
<td>Phone: 717-691-6035 - (Can make recommendations for local confidential counseling and psychiatric services in the local area)</td>
</tr>
<tr>
<td><strong>Medical</strong></td>
<td>Harrisburg Hospital 717-221-6250</td>
</tr>
<tr>
<td></td>
<td>West Shore Pinnacle Hospital: 717-791-2600</td>
</tr>
<tr>
<td></td>
<td>Carlisle Regional Medical Ctr. 717-249-1212</td>
</tr>
<tr>
<td></td>
<td>Holy Spirit Hospital 717-763-2100</td>
</tr>
<tr>
<td><strong>Cumb Cty Rape Crisis Services</strong></td>
<td>Office 1-888-727-2877</td>
</tr>
<tr>
<td></td>
<td>Hotline: 717-258-4324 or 717-258-1143</td>
</tr>
</tbody>
</table>

Revised 9/2018
YWCA Rape Crisis
Domestic Violence Services in Hbg.
Open 24 Hours/7 Days Week
1-800-654-1211
717-238-7273

YWCA of York
Victim Assistance
1-800-422-3204
717-854-3131

Victim Advocacy
Victim 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. 41st 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, Dean of Students and/or Title IX Coordinator determines that a reported incident of interpersonal violence, harassment, 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 and Dean of Students, Facilitator
- Title IX Coordinator/VP for Human Resources & Compliance
- Director for the Department of Safety
- Associate Dean of Students
- Director of Health and Counseling Services
- College Counsel

When appropriate, the Sexual Misconduct Response Team will work in conjunction with the mobilization of the college’s Crisis Management Team. The purpose of the Sexual Misconduct Response Team is to address the safety needs of the community while protecting the victim’s right to privacy and insuring the integrity of college 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 victim will not be present at the Team meetings and the victim’s rights to confidentiality will be respected by all team members. The VP/DOS will keep the victim informed of the Team’s actions, either directly or indirectly through the contact person who reported the assault to the VP/DOS.

Reporting a Violation

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

There are several options for reporting:

<table>
<thead>
<tr>
<th>OFFICIAL REPORTING</th>
<th>CONFIDENTIAL REPORTING</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Report the incident to the Title IX Coordinator or a Deputy Coordinator:</td>
<td>• Report the incident to a confidential support person on campus:</td>
</tr>
<tr>
<td>Title IX Coordinator</td>
<td>• Counselor (Engle Center) ext. 5357</td>
</tr>
<tr>
<td>Amanda Coffey, Vice President for HR &amp; Compliance</td>
<td>• College Pastor ext. 6520</td>
</tr>
<tr>
<td>Old Main 2nd Floor</td>
<td>• Nurse (Engle Center) ext. 6035</td>
</tr>
<tr>
<td><a href="mailto:ACoffey@messiah.edu">ACoffey@messiah.edu</a>, 717-796-5300</td>
<td></td>
</tr>
<tr>
<td>Title IX Deputy Coordinator</td>
<td>• Report the incident to a confidential support person off campus:</td>
</tr>
<tr>
<td>Doug Wood, Associate Dean of Students</td>
<td>Advocacy &amp; Rape Crisis—</td>
</tr>
<tr>
<td>Eisenhower Campus Center 205</td>
<td>• 24/7HOTLINE:</td>
</tr>
<tr>
<td><a href="mailto:DWood@messiah.edu">DWood@messiah.edu</a>, 717-796-1800 ext. 3200</td>
<td>• 1-888-727-2877</td>
</tr>
<tr>
<td>Title IX Deputy Coordinator</td>
<td>• YWCA of Carlisle – Sexual Assault/Rape Crisis Services</td>
</tr>
<tr>
<td>Brooke Good, Head Field Hockey Coach</td>
<td>717-258-4324</td>
</tr>
<tr>
<td>Sollenberger Sports Center 162</td>
<td></td>
</tr>
<tr>
<td><a href="mailto:good@messiah.edu">good@messiah.edu</a>, 717-796-1800 ext. 7359</td>
<td>• YWCA of Harrisburg – Violence Intervention</td>
</tr>
<tr>
<td>Residence Directors may be contacted, but will be required to report to a Title IX Coordinator</td>
<td></td>
</tr>
<tr>
<td>• Report the incident to the Department of Safety:</td>
<td>Health and Medical Care—</td>
</tr>
<tr>
<td>Title IX Deputy Coordinator</td>
<td>• Harrisburg Hospital: 717-221-6250</td>
</tr>
<tr>
<td></td>
<td>• West Shore Pinnacle Hospital: 717-791-2600*</td>
</tr>
<tr>
<td></td>
<td>• Carlisle Regional Medical Center: 717-249-1212 *</td>
</tr>
</tbody>
</table>

Revised 9/2018
An array of safety, medical, psychological, administrative and resolution services are in place and immediately available to students reporting interpersonal violence. The College is committed to supporting a victim’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 College will provide counseling and health services regardless of whether the victim elects to pursue college disciplinary action or criminal prosecution. The Student Handbook describes rights of the respondent in campus discipline.

Violations that Occur Off-Site

This policy also applies to harassment off-site or after normal business hours in College related settings including and not limited to:

- Academic placement (practicums, internships, clinical placements, etc.)
- Field trips, athletic events, conferences
- College related social events or excursions
- Study abroad or service learning trips

In the event that a Messiah College student would experience harassment, discrimination, stalking, assault, violence, or threat of violence off-site, the student is encouraged to take the following steps:

1. Prioritize personal safety
   a. Contacting the police is always an option
   b. Students may also choose to identify a support person to offer support and accompaniment in any circumstance.

2. Contact the program director, excursion advisor, personnel in charge, supervisor, or available administrator to receive support and reporting options.
   a. If this person is not available or not safe, the student is encouraged to reach out to someone who is available and safe.
3. Notify Messiah College. While our Department of Safety cannot respond off-campus, the College is available and committed to supporting students in a variety of other response capacities, including but not limited to:

- Adjusting travel plans to ensure emotional support and physical safety
- Communicating with the student to identify local resources and reporting options
- Communicating with necessary program or site administrators to advocate for student wellness
- Offering long-distance support and response via campus resources, connecting those resources with students upon their return to campus

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, sexual assault and/or stalking need to be familiar with:

- Boundaries of confidentiality
- Services offered by the College and specific departments
- Reporting options and choices available to the victim
- Services offered by associated departments
- Resources available on and off campus of support

Programming and prevention for students and employees addressing the issues of interpersonal violence, harassment, 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.
- 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.
The Grievance Process

Reporting

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

Victims of interpersonal violence, harassment, sexual assault and/or stalking are encouraged to begin the process by talking with an employee with whom they feel comfortable. This could include 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, College 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 pastors, nurses, and counselors, who are notified about an incident, are expected to report it to the Department of Safety, the Associate Dean of Students or the Title IX Coordinator. Confidential reporting is available through the Engle Center and the College Pastor.

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 subsequent outcomes.

Grievance Procedures

Federal law requires College to investigate reported incidents of interpersonal violence, harassment, sexual assault and/or stalking. Once made aware of a grievance, Messiah College is committed to addressing it and establishing a resolution.

Grievance processes include the investigation, the College’s conduct proceedings and any criminal processes related to the grievance. The Messiah College community understands that all parties involved in the report of a violation of the sexual misconduct policy experience significant distress, whether they are the victim, the respondent or any other individual associated with the report. All parties involved are expected to be treated with respect and dignity.

Once a report has been received, the Associate Dean of Students will review the report in partnership with the Department of Safety and the Title IX Coordinator.

Although the College’s general grievance procedures allows for an informal resolution process, an informal process is not appropriate for most violations of the Interpersonal Violence, Harassment, Sexual Assault and/or Stalking Policy. Most complaints are referred to the formal resolution process immediately, and every victim has the right to skip the informal process and move directly to a formal complaint. There is no expectation that the victim meet with or ‘work things out’ with the respondent.
Grievance Review Board

The Grievance Review Board is a College hearing board trained to respond to community conduct violations, grievances, and violations of the Sexual Misconduct and Interpersonal Violence Policy. This board is comprised of a minimum of 6 members, representative of College staff, faculty, and administrators. The members of the GRB are convened in discrete committees, according to due process of conduct hearing and appeal.

The hearing subcommittee is comprised of a minimum of 3 GRB members and a Chair.
The appeal subcommittee is comprised of a minimum of 3 GRB members and a Chair.

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.

Informal Resolution Process

This process is rarely an option for violations of the Interpersonal Violence, Harassment, Sexual Assault and/or Stalking Policy

1. 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 victim 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 victim 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 move to the formal process phase.

Formal Resolution Process

The goal of the grievance process is to provide victims 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 College receives a report or complaint of a violation of this policy, the College will conduct an investigation.

1. The victim will file a formal complaint. This can be done through one of the following individuals/departments:
   a. Amanda Coffey, Title IX Coordinator, VP for Human Resources and Compliance
      Old Main 2nd Floor
      717-796-5300
      ACoffey@messiah.edu

Revised 9/2018
b. Doug Wood, Associate Dean of Students  
Eisenhower Campus Center 205  
717-796-1800 ext. 3200  
DWood@messiah.edu  
c. Department of Safety  
Greenbriar Building  
717-691-6005 (or just ext. 6005 on campus)  
Emergency: 717-796-1800 ext. 6565 (or just ext. 6565 on campus)

2. The respondent is notified of the complaint and provided with the opportunity to review the complaint statement. 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 report, an investigation will begin. The Associate Dean of Students in partnership with the Title IX Coordinator and the Department of Safety will conduct a formal investigation into the complaint. The investigation will include interviewing the victim and the respondent. During this process, the Associate Dean of Students and/or the Title IX Coordinator will advise both the victim 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 victim 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, he or she may be subject to disciplinary action, which may include suspension of enrollment.

4. The investigators will share preliminary findings 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 3-5 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. 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 victim(s) and the respondent(s).

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’s written decision confirmed by the Associate Dean of Students and/or the Title IX Coordinator will reflect either a determination that the allegations cannot be substantiated, or that they can be substantiated and the terms of the prescribed resolution including any disciplinary action deemed appropriate.

8. All parties are provided with the opportunity to review the determination and recommendations for sanctions.

9. The response of all parties is documented. Both the victim and the respondent are provided with an opportunity to approve or appeal the outcome. Specific appeal criteria must be met. *See Appeal Process guideline in this policy, page 19.*

10. If any party chooses to appeal the outcome, they must file a written statement of appeal (within 5 business days) asserting their reasons for appeal and any new evidence to be taken into account.

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

12. 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.

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

14. The victim and respondent parties will be notified of the final outcomes and sanctions.

In the conduct process the Associate Dean of Students and/or the Title IX Coordinator is 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 confidential investigation file.

Sanctions

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

The appropriate action will depend on the following factors: (a) the severity, frequency and pervasiveness of the conduct; (b) prior complaints made by the complainant; (c) prior complaints made against the respondent.

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 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 College activity, in registration of vehicle, in visitation, or other matter. Graduating senior students who violate college 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 College officials: College-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 College 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 College may withhold awarding a degree otherwise earned until completion of the process set forth in the student disciplinary procedures, including the...
8. **Suspension**: Involuntary separation of the student from the College 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 College 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 “O’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](http://www.messiah.edu/offices/business/student_accounts/index.html#refund).

9. **Expulsion**: Permanent separation of the student from the College. A permanent record will be kept in College 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 decision of the Associate Dean of Students
2. Previously unavailable evidence is produced
3. The outcomes issued are too severe or too lenient in relation to the violation

If either the victim or the respondent has the ability to produce new evidence, believes a procedural error has occurred or believes the outcomes to be too severe or too lenient, he/she 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 5 business days of the date of the written decision.

The Associate Dean of Students will confirm receipt of the written statement of appeal within 5 business days. The victim 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 victim and respondent may be assisted during disciplinary hearings and related meetings, by a support person of their choice. The victim and respondent may present witnesses and may produce other evidence for consideration by the appeal subcommittee of the Grievance Review Board. The
victim and complainant are responsible for presenting evidence on their own behalf. Support persons may speak privately to their advisee 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 victim and complainant may not present evidence or question witnesses.

Evidence to be presented by victim(s) and respondent(s) during any hearing on the charges must be shared with the opposing party at least two (2) business days in advance of the scheduled hearing. The College Official 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 College Official 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 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 and the Vice Provost/Dean of Students.
Appendix A – Definitions of Terms

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 college disciplinary proceedings for the violation of community conduct standards if the Department of Safety, Residence Life staff or other College 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 college 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.

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 victim
2. Repeated unwanted, intrusive, and frightening communications from the perpetrator by phone, mail, and/or e-mail
3. Damaging the victim’s property
4. Making direct or indirect threats to harm the victim, the victim's children, relatives, friends, or pets
5. Repeatedly sending the victim unwanted gifts
6. Harassment through the Internet, known as cyber-stalking, online stalking, or Internet stalking
7. Securing personal information about the victim 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 victim's garbage, following the victim, 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 victim.

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—

Revised 9/2018
A) By a current or former spouse or intimate partner of the victim;
B) By a person with whom the victim shares a child in common;
C) By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
D) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
E) By any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction 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 victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

Fondling:
The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim 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.

Hazing (Federal Clery Act Definition):
Hazing is any activity expected of someone joining or participating in a group that humiliates, degrades, abuses, or endangers them regardless of a person’s willingness to participate. (Allan & Madden, 2008.)

Hazing is associated with the process of joining and maintaining membership in a group. Hazing involves behaviors and activities that are potentially humiliating and degrading, with potential to cause physical, psychological and/or emotional harm. The “choice” to participate in a hazing activity is deceptive.
because it’s usually paired with peer pressure and coercive power dynamics that are common in the process of gaining membership in some groups. Circumstances in which pressure or coercion exist can prevent true consent.

**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 victim; 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 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 College 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.
5. Where the person has a mental disability or difference which renders the complainant incapable of consent.

**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 victim, including instances where the victim if 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 victim. Statutory offenses (no force used – victim 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.

**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 College 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 victim.
      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:
   o (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
   o (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.
Appendix B – Victim’s Rights

Any student who believes he or she has been the victim of discrimination, including any type of interpersonal violence, harassment, 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, Harassment, Sexual Assault and/or Stalking 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 a counselor and/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.

Right to Response:

1. You have the right to report a violation of the Interpersonal Violence, Harassment, Sexual Assault and/or Stalking Policy and have Messiah College 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.

Right to Interim 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 College implement a “No Contact Directive” with the respondent.
4. You have the right not to “work it out” with the respondent through mediation. Messiah College does not consider mediation to be appropriate in cases involving interpersonal violence.

Right to Support and Access:

1. You have the right to a support person of your choice to be present.
2. You have the right to an accessible process; including accommodations to navigate the physical, emotional, and mental spaces an investigation requires.
3. You have the right to language translation services for materials, support services, or investigatory interactions.

Right to a Reliable and Impartial Process:

Revised 9/2018
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 complaint.
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 a resolution of your complaint based on what College 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 College will not use a higher standard of proof.
5. You have the right to be informed of the outcome of any disciplinary proceeding held.
6. 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.
7. The appeal process is equally available for both parties.
8. 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 victim’s 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 9/2018
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, Harassment, Sexual Assault and/or Stalking Policy.
2. You have the right to speak confidentially to a counselor and/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.

Right to Interim 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 College implement a “No Contact Directive” with the victim.
4. You have the right not to “work it out” with the victim through mediation. Messiah College does not consider mediation to be appropriate in cases involving interpersonal violence.

Right to Support and Access:

1. You have the right to a support person of your choice to be present.
2. You have the right to an accessible process; including accommodations to navigate the physical, emotional, and mental spaces an investigation requires.
3. 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 a resolution process based on what College 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 College will not use a higher standard of proof.
5. You have the right to be informed of the outcome of any disciplinary proceeding held.
6. 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.
7. The appeal process is equally available for both parties.
8. 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.