

# **Messiah University**

## **Sex-Based Discrimination, Sexual Misconduct, and Interpersonal Violence Policy**

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This policy addresses a range of inappropriate sex-based conduct for which the common element include nonconsensual contact, harm, or violence, 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 sex-based discrimination, stalking, sex-based harassment, hazing, 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 Sex-Based Discrimination, Sexual Misconduct, and Interpersonal Violence Policy includes protocols to prevent, address, and remedy the following conduct within the Messiah University community:

### **Interpersonal Violence and Sexual Misconduct**

(i.e., Coercion; Sexual Exploitation; Inappropriate Sexual Contact; Sexual Misconduct; Sex-based Hazing)

### **Title IX Misconduct**

(i.e., Sex-based Discrimination including Differential Treatment on the basis of sex; Failure to Provide Accommodations for Pregnancy and Related Conditions.

Sex-based Harassment including *Quid Pro Quo Harassment* and/or *Hostile Environment Harassment*; Sexual Assault; Dating Violence; Domestic Violence; and/or Stalking; Retaliation).

The University must define and respond to Title IX Misconduct as required by regulations issued by the U.S. Department of Education to implement Title IX of the Education Amendments of 1972.

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.

Accordingly, Messiah University's Policy prohibiting Sex-based Discrimination, Sexual Misconduct, and Interpersonal Violence is consistent with federal and state 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-based discrimination – which includes sexual violence – in educational programs and activities. Members of the Messiah University community are free to pursue education, employment, and participation (in athletic programs, scholarships,

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membership, and other University activities) free from sex-based discrimination, including harassment, stalking, sexual misconduct, and violence.

The Violence Against Women Act of 1994 (VAWA) is a federal law addressing the need for increased standards of investigation, prosecution, restitution and support measures 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 and 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, and/or Clery (or University community members that wish to file a related complaint) may contact one of the University resources listed below:

**Title IX Coordinator**

Hannah McBride, Coordinator for Title IX & Clery Compliance  
Old Main 201  
hmcbride@messiah.edu, 717-796-1800 ext. 2608

**Prevention & Education Specialist**

Emma Dougherty  
Old Main 1st Floor  
edougherty@messiah.edu, 717-796-1800, ext. 7085

**Title IX Deputy Coordinator**

Doug Wood, Dean of Students  
Eisenhower Campus Center 204  
dwood@messiah.edu, 717-796-1800 ext. 3200

**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), sex-based discrimination and/or 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, sex-based discrimination and/or harassment, hazing, sexual assault, and stalking. Messiah University also affirms this statement of procedures for institutional disciplinary action in cases of alleged interpersonal violence, sex-based discrimination and/or harassment, hazing, sexual assault and/or stalking, when it is disclosed to a University official and reported to the University. 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 outlined in **Appendix A** of this policy.*

These behaviors are demeaning and interfere with the rights of others to pursue participation 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 community member—regardless of age, gender, race, ethnicity, ability or disability, orientation, or religion.

If any allegations of interpersonal violence (including dating or domestic violence), sex-based discrimination and/or harassment, hazing, sexual assault and/or stalking within our community are disclosed to a University official, this policy provides rights, resources, response options (including

informal and formal), measures of support and/or protection, and disciplinary proceedings that may be accessed and applied accordingly.

Messiah University seeks to provide a consistent, caring, and timely response when 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 sex-based harassment, stalking, hazing, sexual misconduct, and/or sexual violence.

Our protocol is designed to do the following:

- Establish and cultivate community involvement in the prevention of discrimination, interpersonal violence and/or sexual misconduct.
- Create a University environment that expedites and encourages the prompt reporting of interpersonal violence and/or sexual misconduct.
- Facilitate the care of a complainant by providing a prompt and compassionate response.
- Ensure due process and equitable access to care for respondents.
- Provide supportive and protective measures to community members impacted by interpersonal violence and/or sexual misconduct.
- Provide crisis intervention, advocacy, and referral services to community members impacted by interpersonal violence and/or sexual misconduct.
- Offer complainants varied and appropriate response options.
- Deliver prompt and thorough action according to the complainant's request (as appropriate).
- Conduct prompt and thorough investigations of interpersonal violence, sex-based discrimination and/or harassment, hazing, sexual assault and/or stalking.
- Take timely and effective steps reasonably calculated to end the interpersonal violence, sex-based discrimination and/or harassment, hazing, sexual assault and/or stalking, prevent its recurrence, and as appropriate, remedy its effects.
- Where appropriate, assist local law enforcement.
- When appropriate, assist community members in pursuing civil and/or criminal processes.

### **University Knowledge and Deliberate Indifference**

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

As such, a report to employees constitutes a report to the University and the University is obligated to respond to the report by providing access to options and protocols included in this policy to address the situation.

Failure to act once the institution has knowledge may result in "Deliberate Indifference," which is a violation of federal law (Title IX).

## **Complainants and Respondents**

The term “complainant” is used to refer to a member of the Messiah University community who discloses allegations of Sex-based discrimination and/or harassment, interpersonal violence, and/or sexual misconduct and wishes to participate in a process to address the report of the harm or prohibited conduct.

An individual who is not a student or employee but was participating in or attempting to participate in the University community at the times of the allegation may also submit a complaint for resolution and become a complainant.

*In some instances, the person who allegedly experienced Sex-based discrimination and/or harassment, interpersonal violence, and/or sexual misconduct may not wish to participate in a resolution process, but the University may have an obligation to the safety of the community to address the allegation. In such cases, typically under Title IX Misconduct definitions and processes, the Title IX Coordinator may choose to initiate the complaint, becoming the complainant in the resolution process.*

For continuity, “complainant” will also be used throughout this policy (and any process documents) to refer generally to community members (or previous or potential community members) who have disclosed allegations of interpersonal violence and/or sexual misconduct, even if they do not choose to 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 Sex-based Discrimination, Sexual Misconduct, and Interpersonal Violence Policy.

Complainants are provided with this complete policy upon filing a complaint.

Respondents are provided with this complete policy upon being notified of an allegation.

## **Supportive Measures for Complainants and Respondents**

Messiah University provides access to University-issued supportive measures for complainants, respondents, and witnesses that are impacted by allegations of interpersonal violence and/or sexual misconduct in our community. The University will provide supportive measures as requested by affected parties and as appropriate—the provision of supportive measures is evaluated based on availability, precedence, and reasonable burden for the University and/or affected parties.

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

A complainant may also access supportive measures regardless of whether a formal complaint is filed (with the University or local law enforcement) if the accommodations are reasonably available and do not violate due process by putting undue burden on a respondent or the University.

## ***No Contact Mandates***

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 Dean of Students, Title IX Coordinator, and/or the Director of Safety may issue this directive. If the University receives a report that an institutional “No Contact Mandate” has been violated, the University will initiate proceedings appropriate to the status of the party in violation and will impose sanctions if the party is found responsible for violating the “No Contact Mandate”.

If a community member at the University is interested in receiving information or support regarding the “No Contact Mandate” process, the complainant may contact the Title IX Coordinator, the Prevention and Education Specialist, the Department of Safety, or the 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.

## ***Access to Supportive Measures***

Upon receipt of a report of interpersonal violence, sex-based 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, including respondents and/or witnesses.

Messiah University will provide complainants and respondents with prompt supportive measures before an investigation or other formal response action is completed.

The University provides written notification to complainants and respondents about supportive measures available to them, via the Title IX Coordinator and/or designee, including measures affecting their academic, living, transportation, and working situations. *The written notification will include the following information: who to contact to request the support measure, the support measures options that may be available and how to obtain assistance with requesting support measures.*

Communication of supportive measures are limited and 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 or designee.

Supportive and protective measures available for request include:

- Academic support or flexibility
- 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, residence hall, or on-campus apartment

- Provide permission for living off-campus
- Change in work schedule
- Change in work assignment
- Change in parking assignment
- Safety escort on campus

Supportive measures *may* include changes or restrictions imposed on another community member (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
- Prohibition from attending specific events or activities
- Implementation of a No Contact Mandate and/or restrictions from campus
- Implementation of a Campus Ban for a non-community member
- Other reasonable supportive measures

To receive assistance in obtaining such supportive and/or protective measures, a community member should contact any of the following:

**Title IX Coordinator**

Hannah McBride, Coordinator for Title IX & Clery Compliance  
Old Main 201  
hmcbride@messiah.edu, 717-796-1800 ext. 2608

**Prevention & Education Specialist**

Emma Dougherty  
Old Main 1st Floor  
edougherty@messiah.edu, 717-796-1800, ext. 7085

**Title IX Deputy Coordinator**

Doug Wood, Dean of Students  
Eisenhower Campus Center 204  
dwood@messiah.edu, 717-796-1800 ext. 3200

**Director of Safety**

Brad Neuenschwander  
Greenbriar Building, 203  
dneuenschwander@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

To ensure no community member at Messiah University experiences personnel as an obstacle to receive the access to support this policy outlines, the University has additional designated personnel who can help community members to understand, evaluate and choose among the services described, and help ensure continuity of services by offering follow-up contact. Community members may choose to seek assistance from trained personnel according to gender, familiarity, and/or professional expertise.

The following serve as additional designated campus personnel for responding to inquiries regarding supportive measures:

- Vice Provost for Student Success and Engagement

- Director of Residence Life
- Department of Safety Supervisors
- Engle Center for Health and Counseling Services (*Confidential resources*)
- Campus Pastors (*Confidential resources*)
- Director of Human Resources and Compliance

### **On-Campus Confidential Resources for Complainants and Respondents**

Any person—complainant, respondent, or witness—involved in an allegation and/or report of interpersonal violence and/or sexual misconduct may have access to a confidential resource. Only specific employees are required to maintain near complete confidentiality and talking to them is sometimes called a “privileged communication.” For community members desiring confidential support, he/she may speak with any of the following on-campus resources:

- Prevention and Education Specialist (ext. 7085)
- Professional staff in the Counseling Center (ext. 5357) )—*confidential for undergraduate students only*
- Campus Pastors (ext. 3080)—*confidential for students only*
- Community Pastor for Employees ([communitypastor@messiah.edu](mailto:communitypastor@messiah.edu))—*confidential for employees only*

Confidential staff are required to pass along non-personally identifiable statistical information to the Clery Coordinator, with the knowledge of the community member. 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 identifiable information regarding community members 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, sex-based 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.

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 in 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 when possible. If personally identifiable information is included in an anonymous report, it may be used in an investigation.

If the University determines that a respondent poses a serious and immediate threat to the University community, University officials may be obligated to act, including initiating an emergency removal process and/or issuing a timely warning to the community, per federal guidance (The Clery Act). Any such warning should not include any information that identifies the complainant.

A complainant who reports confidentially (to the Prevention and Education Specialist, Community Pastor for Employees, Campus Pastors, or staff in the Engle Counseling Center) needs to understand that, if the complainant wants to maintain confidentiality, the University may be unable to investigate the complaint or pursue disciplinary action against the respondent.

Even so, confidential staff members will still assist community members in receiving other necessary protection and support, such as 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 an informal or formal complaint with the University or report the incident to local law enforcement.

## **Amnesty**

### ***Medical and Code of Conduct Amnesty***

Complainants and/or witnesses, regardless of age, will be granted immunity from University disciplinary proceedings for the violation of community conduct standards if the Department of Safety, Title IX administrators, 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 is never granted to respondents for instances of abuse, violence, assault, or egregious behavior to another person.

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

Community members will be immune from institutional 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, administrators identified in this policy, police and/or emergency services, in good faith based on a reasonable belief that another person needed immediate medical attention or intervention to prevent death, serious injury or trauma of some kind.
2. The community member reasonably believed she/he was the first person to make the call or contact on behalf of the other individual(s).

3. The community member provided his/her own name when making the call or contact on behalf of the other individual(s).
4. The community member remained with the person needing medical assistance and/or intervention until emergency health care providers or appropriate personnel arrived and the need for his/her presence had ended.

Community members 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.

### ***LGBT+ Rights***

Reporting an incident of discrimination, sex-based 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. The University acknowledges 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 community members regardless of gender or sexual orientation.

We value safety and care for our community members. Messiah University amnesty protects LGBT+ identities and relationships from sanctions for conduct violations as our priority is addressing discrimination, sex-based harassment, interpersonal violence, and/or sexual misconduct.

If you or someone you know has experienced same-sex assault or sex-based 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.

### **Information for Complainants**

#### ***Confidentiality and Privacy for Complainants***

Messiah University acknowledges that it can be difficult to disclose harmful experiences and it is the individual's right to choose what, if anything. The University encourages complainants to seek options that provide safety and support and allow the University to respond appropriately to harm in our community.

Complainants have the right to talk with University officials about protecting their privacy and to report a violation of this policy in confidence.

Complainants 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 and access to protective measures.

Complainants have the right to file an anonymous report.

Complainants have the right under federal law (Title IX) and University policy to expect reports of interpersonal violence, sex-based harassment, hazing, sexual assault, and/or stalking will be taken seriously by the University. At the request of the community member making the report or when deemed necessary to protect the interests of the University community, reports will be investigated and properly resolved through grievance 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 community member seeking information or wishing to report an incident of interpersonal violence, sex-based harassment, hazing, sexual assault, and/or stalking.

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 the Admissions Welcome Center, or with assistance from the Title IX Coordinator and/or Prevention and Education Specialist.

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

Different employees on campus have different abilities to maintain a complainant's confidentiality:

*All employees* are expected to keep disclosures and personal information private—that is, to be respectful and discreet. If a report is necessary, all employees are expected to report only to campus officials that must know information in order to follow due process.

*All employees* (except designated confidential resources) 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 Prevention and Education Specialist.

*Confidential resources* are designated employees permitted to provide access to supportive measures without reporting any personally identifiable information. Confidential resources inform persons being counseled of the procedures to report crimes on a voluntary basis and provide all victims of potential crimes with rights and resources to assist, regardless of their decision to report.

Confidential resources may be obligated to report despite their professional "privilege" if they receive information that indicates: a person may be of harm to themselves or others, and/or the confirmation or suspicion of abuse of a minor.

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

### ***Advisors and Advocates for Complainants***

All complainants of interpersonal violence, sex-based harassment, hazing, sexual assault and/or stalking are encouraged to contact a person of their choosing to act as an advisor, or an advocate for support during any of the following processes, including all interviews and appointments with University personnel.

*Advisors*, as defined by the Clery Act, are any individual who provides the complainant support, guidance, or advice.

Under the Clery Act, institutions are not permitted to limit the choice of the advisor or their presence in any meeting or institutional disciplinary proceeding; however, institutions are permitted to establish restrictions regarding the extent to which an advisor may participate in the proceedings as long as the restrictions apply equally to both parties.

This advisor can be anyone of the complainant's choosing—including a parent, a roommate, an advocate, or an attorney.

*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. (Advocates can be contacted at the [YWCA Carlisle](#) or [Harrisburg](#).)

### ***Medical Attention and Evidence Collection Procedures for Complainants***

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 address sexual assaults. *In PA, evidence may be collected even if you choose not to make a report to law enforcement.*

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.

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.

Complainants of interpersonal violence, sex-based 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 personnel 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.

Additionally, 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 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 Prevention and Education Specialist.

### ***Complainant Rights to Protective Measures***

Messiah University complies with Pennsylvania State law in recognizing orders of protection. Any Messiah University community member 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, the Title IX Coordinator, and/or the Prevention and Education Specialist, to develop a Safety Action Plan.

*A Safety Action Plan 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 community member 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 Department of Safety, the Title IX Coordinator, and/or the Prevention and Education Specialist 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.

The Prevention and Education Specialist or the Department of Safety will assist complainants via referral to local courts/District Attorney, Domestic Violence Services, or YWCA Rape Crisis Centers for protection order processing (the most efficient way to obtain a protection order is to use one of these local advocacy resources). The Prevention and Education Specialist or the Department of Safety will assist complainants who are interested in pursuing a PFA, PSVI, or SVPO. Any community member 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 protection order violations to the local police.

### ***Off-Campus Resources for Complainants***

Off-campus counselors and advocates will 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.

Advocates can assist complainants in obtaining medical attention while protecting a complainant's identity.

Law enforcement will not maintain confidentiality.

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

<b>RESOURCE:</b>	<b>CONTACT INFORMATION:</b>
<b>Counseling</b>	<ul style="list-style-type: none"> <li>• Messiah University Engle Center Counseling: 717-691-5357</li> </ul> <i>(Can make recommendations for local confidential counseling and psychiatric services in the local area)</i>
<b>Medical</b>	<ul style="list-style-type: none"> <li>• Harrisburg Hospital: 717-221-6250</li> <li>• West Shore Pinnacle Hospital: 717-791-2600</li> <li>• Carlisle Regional Medical Ctr.: 717-249-1212</li> <li>• Holy Spirit Hospital: 717-763-2100</li> </ul> <i>(All have SANE personnel—trained professional staff who specifically handle sexual assaults.)</i>
<b>Cumberland County Rape Crisis Services (Carlisle)</b>	Office: 1-888-727-2877 24/7 Hotline: 717-258-4324 or 717-258-1143
<b>Domestic Violence Services Cumberland &amp; Perry Counties</b>	24/7 Hotline: 1-800-852-2102

<b>Harrisburg Rape Crisis &amp; Domestic Violence Services</b>	Office: 1-800-654-1211 24/7 Hotline: 717-238-7273
<b>Complainant Advocacy</b>	Complainant Services of Cumberland County Phone: 717-761-5599
<b>Legal Assistance</b>	Cumberland County District Attorney's Office Phone: 717-240-6220
<b>Visa and Immigration Assistance</b>	Office: 1-800-375-5283 30 N. 41 <sup>st</sup> Street; Philadelphia, PA 19104
<b>Upper Allen Police Carroll Twp Police</b>	<ul style="list-style-type: none"> <li>• Upper Allen: 717-238-9676</li> <li>• York County: 717-766-0249</li> </ul>

## Information for Respondents

### *Confidentiality and Privacy for Respondents*

Messiah University acknowledges that it can be difficult to participate in proceedings that address allegations of interpersonal violence and/or sexual misconduct. The University encourages respondents to seek options that provide safety and support and engage University protocols with honesty.

Respondents have the right to talk with University officials about protecting their privacy and to report a violation of this policy in confidence.

Respondents have the right to access support and protective measures.

Respondents have the right under federal law (Title IX) and University policy to expect that reports of interpersonal violence, sex-based harassment, hazing, sexual assault, and/or stalking will be taken seriously by the University, and that respondents are afforded due process in all proceedings. 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 community member seeking information.

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

Different employees on campus have different abilities to maintain a respondent's confidentiality:

*All employees* are expected to keep disclosures and personal information private—that is, to be respectful and discreet. If a report is necessary, all employees are expected to report only to campus officials that must know information in order to follow due process.

*All employees* (except designated confidential resources) 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 Prevention and Education Specialist.

*Confidential resources* are designated employees permitted to provide access to supportive measures without reporting any personally identifiable information. Confidential resources inform persons being counseled of the procedures to report crimes on a voluntary basis.

Confidential resources may be obligated to report despite their professional “privilege” if they receive information that indicates: a person may be of harm to themselves or others, and/or the confirmation or suspicion of abuse of a minor.

*A comprehensive review of respondent’s rights is found in **Appendix C** of this policy.*

### ***Advisors for Respondents***

All respondents of interpersonal violence, sex-based harassment, hazing, sexual assault and/or stalking are encouraged to contact a person of their choosing to act as an advisor during any of the following processes, including all interviews and appointments with University personnel.

*Advisors*, as defined by the Clery Act, are any individual who provides the respondent with support, guidance, or advice.

Under the Clery Act, institutions are not permitted to limit the choice of the advisor or their presence in any meeting or institutional disciplinary proceeding; however, institutions are permitted to establish restrictions regarding the extent to which an advisor may participate in the proceedings as long as the restrictions apply equally to both parties.

This advisor can be anyone of the respondent’s choosing—including a parent, a roommate, an advocate, or an attorney.

### ***Off-Campus Resources for Respondents***

Off-campus counselors will maintain confidentiality and not share information with the University unless the respondent requests 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.

Law enforcement will not maintain confidentiality.

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

<b>RESOURCE:</b>	<b>CONTACT INFORMATION:</b>
<b>Counseling</b>	<ul style="list-style-type: none"><li>• Messiah University Engle Center Counseling: 717-691-5357 (Can make recommendations for local confidential counseling and psychiatric services in the local area)</li></ul>

<b>Medical</b>	<ul style="list-style-type: none"> <li>• Harrisburg Hospital: 717-221-6250</li> <li>• West Shore Pinnacle Hospital: 717-791-2600</li> <li>• Carlisle Regional Medical Ctr.: 717-249-1212</li> <li>• Holy Spirit Hospital: 717-763-2100</li> </ul>
<b>Legal Assistance</b>	Cumberland County District Attorney's Office Phone: 717-240-6220
<b>Visa and Immigration Assistance</b>	Office: 1-800-375-5283 30 N. 41 <sup>st</sup> Street; Philadelphia, PA 19104
<b>Upper Allen Police Carroll Twp Police</b>	<ul style="list-style-type: none"> <li>• Upper Allen: 717-238-9676</li> <li>• York County 717-766-0249</li> </ul>

## Education and Support

All campus departments who would be able to offer appropriate support for a community member reporting or responding to allegations of interpersonal violence, sex-based harassment, hazing, sexual assault and/or stalking need to be familiar with:

- Boundaries of confidentiality
- Reporting obligations under Title IX and the Clery Act
- Compliance with due process as it pertains to their role
- Reporting options available to the complainant
- Resources available for referral
- Services offered by the University and specific departments
- Trauma-informed response

Programming and prevention education for community members and employees addressing the issues of interpersonal violence, sex-based harassment, hazing, sexual assault, and stalking will be addressed in multiple spaces and contexts at the University:

- Prohibited conduct, rights for community members, and reporting options for all incoming students and new employees.
- Reporting obligations for employees, and specifically for Campus Security Authorities.
- Ongoing primary prevention and awareness programs for all students and employees, including options for bystander intervention (delegation, distraction, direct intervention, and de-escalation).
- Prevention education and trauma-informed response are addressed annually in all Residence Life staff training.
- Hazing prevention and response education is offered to groups on campus, and on rotation as mandatory education to student-athletes and athletic personnel.
- Healthy and unhealthy relationship awareness and prevention programming (such as One Love, consent workshops, groups on boundaries and self-advocacy, etc.) is offered annually to all students—not mandatory.
- Stalking awareness, prevention, education, and response programming is offered annually to all students—not mandatory.

- Trauma-informed options are integrated into all prevention, education, and response programming.
- Safe and positive options for bystander intervention (including delegation, distraction, direct intervention, and de-escalation).
- Ongoing prevention and awareness programs for community members that focus on community norms, empathy-building, gender roles, and healthy relationship skills.
- Self-defense classes or de-escalation classes (RAD or SAFE) are available several times a semester, or by arrangement with the Department of Safety.
- An educational brochure addressing interpersonal violence policies and processes will be posted annually.
- Information on rights and resources will be posted annually (online and across campus).

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](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 Coordinator, Decision Maker, and 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/](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>

## The Grievance Process

### *Disclosure*

Complainants of interpersonal violence, sex-based discrimination and/or harassment, hazing, sexual assault and/or stalking are encouraged to begin the process by talking with whomever they feel comfortable, which could include employees that serve as a source of personal or professional support.

Community members should be aware that all employees, with the exception of confidential resources, who are notified about an incident, are expected to report it to the Title IX Coordinator, the Department of Safety, Deputy Title IX Coordinators, or the Prevention and Education Specialist.

### *Reporting*

**To report an emergency, please dial 9-1-1 or the Department of Safety's emergency extension 6565.**

A report begins the procedure of offering complainants options for supportive measures and resolution processes.

An array of safety, medical, psychological, administrative and resolution services are in place and immediately available to community members reporting interpersonal violence.

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.

The University is committed to supporting a complainant's right to exercise his or her informed choice among these services and to ensuring (as is reasonably possible) his or her confidentiality if confidential support is requested. Messiah University will provide access to supportive measures regardless of whether the complainant elects to pursue University disciplinary action or civil/criminal processes.

The options for where to make official or confidential reports are as follows:

OFFICIAL REPORTING	CONFIDENTIAL REPORTING
<ul style="list-style-type: none"><li>• <b>Report online:</b> <a href="#">Interpersonal Incident Report</a></li><li>• <b>Report to the IPV Coordinator:</b>  <b>Prevention &amp; Education Specialist</b> (<i>also a confidential resource</i>) Emma Dougherty Old Main 1st Floor edougherty@messiah.edu, 717-796-1800, ext. 7085</li><li>• <b>Report to the Title IX Coordinator or a Deputy Coordinator:</b></li></ul>	<ul style="list-style-type: none"><li>• <b>Report <i>anonymously</i> online:</b> <a href="#">Interpersonal Incident Report</a></li><li>• <b>Report to the IPV Coordinator:</b>  <b>Prevention &amp; Education Specialist</b> (<i>also a confidential resource</i>) Emma Dougherty Old Main 1st Floor edougherty@messiah.edu, 717-796-1800, ext. 7085</li><li>• <b>Report the incident to a <i>confidential</i> resource on-campus:</b></li></ul>

<p><b>Title IX Coordinator</b> Hannah McBride, Coord. for Title IX and Clery Compliance Old Main 2nd Floor hmcbride@messiah.edu, 717-796-1800 ext. 2608</p> <p><b>Title IX Deputy Coordinator</b> Doug Wood, Dean of Students Eisenhower Campus Center 204 dwood@messiah.edu, 717-796-1800 ext. 3200</p> <p><b>Title IX Deputy Coordinator</b> Brooke Good, Head Coach, Asst. Athletics Director Sollenberger Sports Center, Suite 4501 good@messiah.edu, 717-796-1800 ext. 7359</p> <ul style="list-style-type: none"> <li>• <b>Report to the Department of Safety at 717-691-6005</b></li> <li>• <b>Report to Upper Allen police at 911 or 717-795-2445</b></li> </ul>	<ul style="list-style-type: none"> <li>• Counselor (Engle Center): ext. 5357</li> <li>• Nurse (Engle Center): ext. 6035</li> <li>• Campus Pastors: ext. 3080</li> <li>• Community Pastor for Employees: <a href="mailto:communitypastor@messiah.edu">communitypastor@messiah.edu</a></li> </ul> <ul style="list-style-type: none"> <li>• <b>Report the incident to a <i>confidential</i> professional off-campus:</b></li> </ul> <p>Advocacy &amp; Rape Crisis—</p> <ul style="list-style-type: none"> <li>• 24/7 HOTLINE (Carlisle): <ul style="list-style-type: none"> <li>• 1-888-727-2877</li> </ul> </li> <li>• 24/7 HOTLINE (Harrisburg): <ul style="list-style-type: none"> <li>• 1-888-727-2877</li> </ul> </li> </ul> <p>Domestic Violence Services—</p> <ul style="list-style-type: none"> <li>• 24/7 HOTLINE (Carlisle): <ul style="list-style-type: none"> <li>• 1-800-852-2102</li> </ul> </li> </ul>
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**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.**

### ***Confidential Reporting***

Community members have the option of remaining anonymous when reporting via the Interpersonal Incident Report at [www.messiah.edu/incident](http://www.messiah.edu/incident).

In addition, confidential reporting is available through the Prevention and Education Specialist, the Engle Center, the Campus Pastors, and the Community Pastor for Employees.

If an employee chooses to report a grievance to Human Resources and Compliance and requests confidentiality, the ability to maintain confidentiality will depend on evaluating the nature of the complaint and the responsibility of the University to maintain safety for all community members.

*(Reporting confidentially does limit the University's ability to respond, investigate, and the potential for subsequent outcomes or resolution.)*

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

The complainant is notified of their rights, in writing.

## **University Response to Reports**

### ***Notification***

Once a report has been received, the Prevention and Education Specialist will confidentially contact the complainant to notify the complainant of his/her options regarding resources, resolution processes available, and supportive measures.

This communication also includes a link to this policy for full notification of rights and procedures, as well as an invitation to have a confidential conversation to review any of the information made available.

It is through this communication and intake process that a complainant identifies the supportive measures and/or response options that they wish to pursue. The University responds according to the complainant's wishes unless the options requested are not appropriate according to the parameters of this policy.

Response options include: a confidential response that does not initiate a response but can still include supportive measures, filing an informal complaint, and filing a formal complaint.

### ***Interpersonal Violence and Sexual Misconduct Response Team***

If the Title IX Coordinator (or designee) determines that a report of interpersonal violence, sex-based harassment, hazing, sexual assault and/or stalking represents a potentially imminent and/or violent danger to the campus community, they will promptly convene the Interpersonal Violence and Sexual Misconduct Response Team (IPV/SMRT).

A potentially imminent and/or violent danger to the community includes but is not limited to the following alleged conduct:

- A pattern of acquaintance sexual assault;
- A pattern of domestic violence;
- A pattern of dating violence;
- A stranger assault;
- A violent or sadistic assault, including assault with a weapon;
- Gang rape;
- Random and troubling stalking patterns

The Interpersonal Violence and Sexual Misconduct Response Team is comprised of collaborating partners such as:

- Title IX Coordinator
- VP for Human Resources & Compliance and/or the Vice Provost for Student Success & Engagement
- Director for the Department of Safety
- Clery Coordinator
- Dean of Students
- Prevention and Education Specialist

- Director of Counseling Services
- University Counsel

When appropriate, the IPV/SMRT Team will work in conjunction with the mobilization of the University's Crisis Management Team. The purpose of the IPV/SMRT is to address the safety needs of the community while protecting the complainant's right to privacy, the respondent's right to due process, and ensuring the integrity of University response. If a threat to the community is determined, an Emergency Notification or a Timely Warning will be released and other steps to ensure campus safety will be considered. The Title IX Coordinator and Clery Coordinator will be responsible for the release of information and will do so in consultation with the Director of Public Relations, the Vice Provost for Student Success and Engagement or the Vice President for Human Resources and Compliance. The Vice Provost for Student Success and Engagement or the Vice President for Human Resources and Compliance will notify the President and President's Cabinet of the concern and response.

The complainant will not be present at the IPV/SMRT meetings and the complainant's rights to confidentiality will be respected by all team members. The IPV/SMRT will keep the complainant informed, either directly to the complainant or indirectly, if the complainant prefers a designee to protect their identity.

### ***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 Dean of Students (or a designee) and may result in immediate suspension of the University community member 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 University community member 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 community member 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.

### ***Retaliation***

Retaliation is any act of harm **in response to** actual or perceived harm.

Retaliation in response to a report—including against someone who reports an allegation of interpersonal violence and/or sexual misconduct, or against someone who participates in the investigation of an allegation of interpersonal violence and/or sexual misconduct—is strictly prohibited by University policy and by law.

Retaliation can occur in many forms; freedom of association and freedom of personal expression are not considered acts of retaliation unless the actions include actual or perceived threats of harm.

The following list illustrates some (not all) examples of behavior that would be considered retaliation:

1. Asking a complainant why they filed a complaint or pursued an investigation. 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 a complainant, respondent, or witness in any manner.
4. Cyber-bullying or using social media to criticize, harass, demean, or aggravate the complainant, respondent, or witness.
5. Excluding the complainant, respondent, or witness from team meetings or other such events to which they are a rightful participant, thereby creating an obstacle for a party to participate in their education or activities.
6. Asking friends to assault, intimidate, or bully a complainant, respondent, or witness.

All acts of retaliation directed at another party that could be interpreted as threatening or harassing are prohibited and may be investigated and sanctioned as a violation of the University's code of conduct and/or Title IX policy.

Community members 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 the Dean of Students, the Title IX Coordinator, Human Resources, or the Department of Safety.

## **Grievance Procedures**

### ***Context and Expectations***

Federal law requires the University to offer resolution processes, including investigative processes, in response to reported incidents of interpersonal violence, sex-based harassment, hazing, sexual assault and/or stalking in which the complainant reports via a formal complaint.

Once made aware of a formal complaint, Messiah University is committed to addressing the complaint and establishing a resolution.

Messiah University 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.

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.

Complainants are offered a range of resolution processes, and every complainant has the right to request an investigative process once they have filed a formal complaint. Although the University's general grievance procedures allows for an informal resolution process, an informal process is not an appropriate

response to address some allegations of interpersonal violence and/or sexual misconduct.

*There is no expectation that the complainant meet with or ‘work things out’ with the respondent.*

Once a formal complaint has been received, the Title IX Coordinator reviews and assesses the formal complaint statement to determine whether the desired resolution process is appropriate to pursue. Upon approval, the Title IX Coordinator signs the complaint statement to initiate the response process.

### ***Non-Biased Participants within the Grievance Process***

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 function 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***

The Informal Resolution Process is a voluntary process within Messiah University’s Sex-Based Discrimination, Sexual Misconduct, and Interpersonal Violence Policy that is focused on providing resolution through remedies and/or sanctions that are agreed upon by both the complainant and respondent. It is considered at the request of the complainant and requires participation by both the complainant and respondent, as well as approval by the Title IX Coordinator.

*This process is not always an appropriate response option for allegations of interpersonal violence, sex-based harassment, hazing, sexual assault and/or stalking and is subject to approval through 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 both parties agree to engage while still maintaining the safety of the overall campus community.

During this process, both the complainant and the respondent may request to have an advisor present.

1. The Title IX Coordinator will review the request with the complainant, and if approved, provide both parties with notice of the process, their rights, and the requested action. The Title IX Coordinator may assign additional resolution administration to the Dean of Students and/or a designee (or the Dean of the School of Graduate and Professional Studies and/or a designee).
2. This University official will meet separately with the complainant and the respondent, consult with the Title IX Coordinator as needed, and determine a resolution based on these discussions.
3. If the resolution is agreed to by both the complainant and the respondent, the appropriate University official (such as the Dean of Students, the Dean of the School of Graduate and Professional Studies, the Title IX Coordinator, and/or a designee) will follow up to ensure that the outcomes are met.

4. If the outcomes are not accepted by one or both parties, the resolution process will be reassessed for appropriate action. Complainants will have the opportunity at any time to request an Investigative Resolution Process.
5. Once the agreement has been signed, both parties waive the right to appeal the outcome or engage in a Formal Resolution Process.

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

The complainant (and respondent, if named) is notified of their rights, in writing.

### ***Adaptable Resolution Process***

The Adaptable Resolution Process is a voluntary, formal process within Messiah University's Sex-based Discrimination, Sexual Misconduct, and Interpersonal Violence Policy that is grounded in Restorative Justice practices 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.

*This process is not always an appropriate response option for allegations of interpersonal violence, Sex-based harassment, hazing, sexual assault and/or stalking and is subject to approval through the Title IX Coordinator.*

By fully participating in this process the respondent will not be charged with a violation of University Policy, but will be expected to engage personal accountability.

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.

During this process, both the complainant and the respondent may request to have an advisor present.

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 Coordinator. In order for the adaptable resolution process to be appropriate, both parties must articulate an understanding and informed agreement on the necessary elements of the process. Both the complainant and respondent must agree to the following terms should they wish to participate in the adaptable 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 respondent'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. The Title IX Coordinator may approve a shift to the investigative resolution process if parties violate the terms of or abuse the Adaptable Resolution Process.

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

If the resolution is agreed to by both the complainant and the respondent, the Dean of Students/Dean of the School of Graduate and Professional Studies, 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 prior to the respondent(s) signing the agreement or in the event that the terms of the agreement are violated.

*The Adaptable Resolution Agreement may be used in the sanctioning phase of determination in an Investigative Resolution Process.*

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

The complainant and respondent are notified of their rights, in writing.

### ***Grievance Review Board***

Investigative resolution processes utilize a 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 members representative of University staff, faculty, and administrators. The members are convened in discrete committees, according to due process of conduct hearing and appeal.

The hearing subcommittee is comprised of at least 2 members, including a Chair (decision-maker).

The appeal subcommittee is comprised of at least 2 members, serving as decision-maker for the grounds of appeal.

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

### ***University Investigative Resolution Process***

The goal of the University investigative 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 investigate.

During this process, both the complainant and the respondent may request to have an advisor present.

The complainant and/or respondent always has the right to decline to participate in an investigation, including the live hearing. However, absence from the process may be considered in determining responsibility. Should a respondent refuse to present evidence or respond to questioning, If a respondent refuses to answer questions or provide information, the investigating body may draw negative inferences from their lack of cooperation.

*Should an employee who has been invited to participate as a witness in the investigation of sex-based misconduct refuse or fail to cooperate fully with an investigation, they may be subject to disciplinary action.*

The investigative resolution process includes the follows procedures:

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

Hannah McBride, Title IX Coordinator  
Old Main 2nd Floor  
717-796-2608  
[hmcbride@messiah.edu](mailto:hmcbride@messiah.edu)

Doug Wood, Dean of Students, Title IX Deputy Coordinator  
Eisenhower Campus Center 204

717-796-1800 ext. 3200  
[dwood@messiah.edu](mailto:dwood@messiah.edu)

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

Emma Dougherty, Prevention & Education Specialist  
Old Main 1st Floor  
717-796-1800, ext. 7085  
[edougherty@messiah.edu](mailto:edougherty@messiah.edu)

Department of Safety Personnel:  
Brad Neuenschwander, Director of Safety *or* Maranda Hogue, Title IX Investigator  
Greenbriar Building  
717-691-6005 (or ext. 6005 on campus)  
Emergency: 717-796-1800 ext. 6565 (or just ext. 6565 on campus)

*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.*

Upon approval, the complainant is provided with notice—notice includes the initial allegations, the name of complainant and respondent parties, the date, time, and location of the allegations, process, information, and party rights.

2. The respondent is provided with notice—notice includes the initial allegations, the name of complainant and respondent parties, the date, time, and location of the allegations, process, information, and party rights.
3. In response to the formal complaint and request for investigation, an investigation is initiated. Two of the University investigators/Title IX Deputy Coordinators (or an independent investigator contracted with the University) will serve as investigators at the approval of the Title IX Coordinator.

Investigators should be without a conflict of interest and anyone with a conflict of interest will be removed from the investigation.

The investigation will include interviewing the complainant and the respondent in separate interviews.

The investigation may also include interviewing other individuals such as witnesses.

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, discloses, or publishes confidential information will be subject to disciplinary action.

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

- Meeting with all parties in a timely manner.
- Providing parties with written materials communicating rights, supportive measures, and resources.
- Establishing an appropriate timeline for processing the complaint.
- Meeting with representatives and personnel relevant to the investigation.
- Organizing, implementing, and/or partnering in an appropriate investigation.
- Conducting impartial and trauma-informed interview of all individuals believed to have relevant information.
- Documenting and collecting statements, interviews, and evidence.
- Reviewing findings with the Title IX Coordinator as necessary.
- Rendering a written Investigation Report with the Title IX Coordinator and/or designee.
- Closing and retaining the investigation file.

4. The investigators will share the investigation materials, summary, and all evidence with the Title IX Coordinator. The Title IX Coordinator will provide the Investigation Report to the individuals assigned to the hearing subcommittee of the Grievance Review Board, and all parties involved.

5. Within ten (10) business days of receiving the full investigation materials, evidence, and summary:

All parties may provide written statements within ten (10) business days that include additional information in response to these initial findings to further the investigation process.

Additional inquiries can be made (if necessary) by investigator(s).

The hearing subcommittee of the Grievance Review Board may request and receive education relevant to the content of the allegation under consideration via the Chair (decision-maker).

6. The Title IX Coordinator will schedule a live hearing with the hearing subcommittee of the Grievance Review Board, the complainant(s), the respondent(s), any advisors, any witnesses, and at least one participating investigator present,

7. The Grievance Review Board is responsible for reviewing all investigative materials and determining outcomes in the form of finding the respondent(s) responsible or not responsible for the allegations investigated. These findings will be rendered in writing with sanctions and/or remedies. This statement of findings will be provided to both the complainant(s) and the respondent(s), simultaneously in writing.

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 Chair of the Grievance Review Board is responsible for providing the written decision, which must be reviewed and/or confirmed by the Title IX Coordinator and/or designee.

The written decision will reflect either a determination that the allegations cannot be substantiated (a finding of not responsible), or a determination that they can be substantiated (a finding of responsible) and the terms of the prescribed resolution including any sanctions and/or remedies.

**8.** The complainant and the respondent parties are provided with the opportunity to review the determination and sanctions and/or remedies.

**9.** Both the complainant and the respondent parties are provided with an opportunity to approve or appeal the outcome. Specific appeal criteria must be met.  
*See Appeal Process below.*

**10.** If either the complainant or the respondent parties choose to appeal the outcome, they must file a written statement of appeal within five (5) business days, asserting their reasons for appeal and any new evidence to be considered.

**11.** The other party then has 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/remedies, will be given to the appeal subcommittee of the Grievance Review Board 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 Grievance Review Board will then make the final determination of outcomes based on all information.

**14.** The complainant and the respondent parties will be notified simultaneously of the final findings.

### ***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, while also adhering to processes specific to Title IX jurisdiction. Once the University receives a formal complaint of a violation of this policy and a request for an Investigative Resolution Process, the University will assess whether or not the report will meet the standards of Title IX jurisdiction.

If the report meets the standards of Title IX jurisdiction, the response proceedings follow the University Investigative Resolution Process with the addition of the following components specific to a Title IX live hearing:

- a. During this process, the Title IX Coordinator will inform the complainant and respondent that if they wish to present questions for cross-examination of the opposing party, then they must submit these questions to the Chair of the Grievance Review Board for consideration. The Chair will determine relevancy of the party's cross-examination and may choose to allow or disallow the question(s) to be put to the opposing party. If the questions are considered relevant, the Chair or another member of the Grievance Review Board will present these questions during the hearing on behalf of the party that submitted the questions.

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) may consider the lack of participation in their findings.
- e. The hearing will be audio or audio-visually recorded, and the recording retained for seven (7) years. The recording must be made available to either the complainant or respondent upon their request.

### ***Mandatory and Discretionary Dismissals***

Title IX regulations define instances where the Title IX Coordinator may dismiss a Title IX Resolution Process for a formal complaint.

The Title IX Coordinator has the *discretion* to dismiss a formal Title IX Resolution Process (or any allegations therein) in response to a complaint if, at any time during the investigation or hearing, it is determined that:

- The conduct alleged in the formal complaint would not constitute sex-based discrimination as defined in the policy, hereinabove, even if proved;
- The complainant is not participating in or attempting to participate in the education program or activity of the University;

- The institution is unable to identify the respondent after taking reasonable steps to do so;
- The complainant voluntarily withdraws any or all the allegations in the complaint, the Title IX Coordinator declines to initiate a complaint (including if the University determines that, without the complainant's withdrawn allegations any remaining conduct alleged in the complaint "would not constitute sex discrimination");
- The respondent is not enrolled in or employed by the University.

Before dismissing the complaint, the institution must attempt to clarify the allegations with the complainant.

Upon initiating 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 complainant and respondent parties, if the dismissal occurs after the respondent has been notified of the allegations.

This dismissal decision is appealable by the complainant under the procedures for grievance appeal listed below. The decision *not* to dismiss is also appealable by either the complainant or the respondent party claiming that a dismissal is appropriate. The decisionmaker for the appeal must be a Deputy Title IX Coordinator or designee who is independent from the investigation. The parties must have an equal opportunity to make a statement in support of or challenging the dismissal, and received notification of the result of the appeal and its rationale(s).

If a complainant or respondent party 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 designated Title IX official who will communicate the decision to grant or deny the appeal to the requesting party in a reasonable timeframe, and will provide the other party (parties) and the Title IX Coordinator a copy of the appeal decision.

### ***Sanctions and Remedies***

The scope for disciplinary sanctions and remedies is described below. The application of sanctions and remedies will reflect the seriousness of the allegation and the community member's history of previous violations.

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

1. **Letter of Reprimand or Warning:** Written documentation of inappropriate behaviors or attitudes with a temporary record kept in the community member's file.
2. **No Contact Mandate:** University personnel may implement a No Contact Mandate at the request of a complainant *or* at the discretion of the University, according to the perceived need for boundaries and community impact.

3. **Loss of Privilege:** May include but is not limited to: loss of a privilege of participating in a University activity, in registration of vehicle, in visitation, or other matter. Graduating senior community members who violate University policies prior to graduation may lose the privilege of participating in senior activities and commencement ceremonies. The University may also implement the loss of supervisory and/or leadership roles at the University, or loss of eligibility for promotion.
4. **Housing Restrictions:** Students may be required to abide by specific housing assignments which may include but are not limited to: on-campus housing permission only, assignment to a single residence (without roommates), assignment to off-campus housing, or change in housing assignment as determined by the University. Additionally, residential community members 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.
5. **Developmental/Educational Assignments:** May include but are not limited to: attendance at educational programs, personal essay, mandatory professional development, and written reflection on issues relevant to one's discipline case or involvement in a mentoring relationship.
6. **Assessment and Treatment:** Community members may be assigned to undergo an off-campus assessment and relevant treatment as a condition for remaining in the community or as a condition for returning to the community.
7. **Fines:** A monetary fee imposed to deter and prevent activity detrimental to the community.
8. **Restitution:** A monetary fee imposed to compensate for loss, damage, or injury. This may take the form of appropriate service, monetary, or material replacement.
9. **Community Service:** Assignment to complete relevant, appropriate, and/or educational community service on or off campus.
10. **Disciplinary Probation:** A strong written reprimand. Notification is made to appropriate University officials: University-based financial aid may be reviewed, and community members in leadership positions (e.g., residence staff, SGA leaders, captains of intercollegiate athletics teams, ministry team leaders, supervisors, committee chairs, etc.) 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.). Community members who have applied to study abroad programs and/or cross-cultural courses will be subject to further review by appropriate University personnel.
11. **Ban from Campus:** Written notification to individuals: within the University community, closely affiliated with the University community, with prior affiliation to the University community, with intention to join the University community, and/or posing a threat of some kind to the University community. This notification indicates that the individual(s) in question are not permitted on University-owned property and/or to attend University events or activities. The University notifies local law enforcement of the implementation of a campus ban; should a

campus can be violated the University will notify local law enforcement and pursue action.

- 12. Suspension:** Involuntary separation of students 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](http://www.messiah.edu/offices/business/student_accounts/index.html#refund).
- 13. Withholding degree:** The University may withhold awarding a degree otherwise earned until completion of the process set forth in the disciplinary procedures, including the completion of sanctions imposed.
- 14. Expulsion:** Permanent separation of the student(s) from the University. A permanent record will be kept in University disciplinary and academic files.
- 15. Termination:** Permanent separation of the employee(s) from the University. A permanent record will be kept in University disciplinary and employment files.

### ***Grievance Appeal Process***

The Grievance Process includes an option to appeal the determination set forth by the Grievance Review Board. The following procedures to appeal are provided in writing simultaneously to both the complainant and the respondent parties.

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 would 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 party has the ability to produce new evidence, believes a procedural error has occurred that affected the outcome or has evidence to support that 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 Dean of Students and/or the Title IX Coordinator within five (5) business days of the date of the written decision.

The Dean of Students and/or the Title IX Coordinator will convene the appeal subcommittee of the Grievance Review Board and schedule an examination of the matter which will include a review of the appeal application and any substantiating 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 complainant and the respondent parties of the decision responding to the appeal, and any recommendations within a reasonable timeframe to conduct and conclude their deliberative process. This notification will be provided to both the complainant and the respondent parties simultaneously in writing. The decision of the Grievance Review Board will be final.

Additionally, the decision will be shared with all investigators and the Title IX Coordinator. The Title IX Coordinator may inform the Vice Provost for Student Success and Engagement, the Dean of Students, and/or other members of the President's Cabinet if appropriate.

# Appendix A – Definitions of Policy Terms

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## **Advisor:**

Advisors, as defined by the Clery Act, are any individual who provides the complainant or respondent support, guidance, or advice.

Under the Clery Act, institutions are not permitted to limit the choice of the advisor or their presence in any meeting or institutional disciplinary proceeding; however, institutions are permitted to establish restrictions regarding the extent to which an advisor may participate in the proceedings as long as the restrictions apply equally to both parties.

This advisor can be anyone of the complainant or respondent's choosing for Title IX Misconduct and Clery crime resolution processes—including a parent, a roommate, an advocate, or an attorney.

## **Amnesty:**

Amnesty refers to an exemption from institutional disciplinary or state legal proceedings in a violation of the community member code of conduct; amnesty offers punitive immunity based on medical and/or safety concerns for the community members reporting and/or affected. Community members, 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 interpersonal violence and sexual misconduct. 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.

Safe and practical ways to engage as an active bystander include distracting from the situation, delegating to another person for response (by reporting or reaching out for support), directly intervening, or diffusing the tension by employing de-escalating techniques.

## **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 sex-based 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 (as understood and applied by Messiah University) 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.

#### **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 knew, or a sober, reasonable person in the position of the respondent should have known, that the complainant was incapacitated. Because incapacitation may be difficult to discern, community members 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.*

#### **Minor:**

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

#### **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 sex-based harassment.

**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.

# Appendix A – Definitions of Allegation Terms

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## **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. Sex-based 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.

## **Differential Treatment (under Title IX):**

Treating someone differently (including behaviors, attitudes, policies, and practices) based on sex in a way that causes more than de minimis harm, except in limited circumstances. *For example, University is permitted to treat people differently in sex-separate living facilities or sex-separate athletic teams.*

## **Domestic Violence (Federal Clery Act Definition):**

A Felony or misdemeanor crime of violence committed—

- i. By a current or former spouse or intimate partner of the complainant;
- ii. By a person with whom the complainant shares a child in common;
- iii. By a person who is cohabitating with, or has cohabitated with, the complainant as a spouse or intimate partner;
- iv. 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
- v. 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.

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.

#### **Sex-based Harassment:**

Unwelcome conduct (including behaviors, attitudes, policies, and practices) based on a person's sex, gender identity, sexual orientation, pregnancy, or related conditions.

Harassment is unwelcome conduct 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 perception, stereotypes, and identity.

Sex-based harassment can take the form of:

***quid pro quo sex-based harassment*** defined as “an employee, agent, or other person authorized by the [University] to provide an aid, benefit, or service under the [University's] education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.”; or

any instance of **hostile environment harassment** defined as “unwelcome sex-based conduct that, based on the totality of circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the University's education program or activity...whether a hostile environment has been created is a fact-specific inquiry...”:

*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.*

*For the University's full Harassment Policy which includes other forms of harassment, see:*  
[https://www.messiah.edu/info/22493/harassment\\_policy](https://www.messiah.edu/info/22493/harassment_policy)

**Incest:**

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

- i. Who is or has been in a social relationship of a romantic or intimate nature with the complainant; and
- ii. 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.

**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 community member's bedroom, restroom, or locker room, is considered public nudity and will not be tolerated. Any community member 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.

*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 the age of consent) are excluded.*

**Retaliation:**

Retaliation is defined as conduct that may reasonably be perceived to:

adversely affect a person's educational, living, or work environment because of his or her good-faith participation in the reporting, investigation, and/or resolution of a report of a violation of this policy; or

discourage a reasonable person from making a report or participating in an investigation under this policy, any other University policy, or any other local, state, or federal complaint process, e.g., filing a complaint with an entity such as the U.S. Department of Education.

Retaliation includes, but is not limited to, acts or words that constitute intimidation, threats, or coercion intended to pressure any individual to participate, not participate, or provide false or misleading information during any proceeding under this policy.

Retaliation may include abuse or violence, other forms of harassment, and/or making false statements about another person in print or verbally with intent to harm their reputation.

Retaliation can be committed by any individual or group of individuals. Retaliation is prohibited even when any initial allegation did not result in a finding of responsibility, is eventually dismissed or is deemed to lack merit.

**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."

**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 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):**

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

- i. Fear for the person's safety or the safety of others; or
- ii. Suffer substantial emotional distress.

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.

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.

## Appendix C – Complainant’s Rights

Any community member who alleges discrimination, including any type of interpersonal violence, sex-based harassment, hazing, sexual assault or stalking, is offered 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 Sex-based Discrimination, Sexual Misconduct, and Interpersonal Violence 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, 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 an advisor of your choice 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 a right to be provided with an advisor in a Title IX Misconduct hearing, should you require an advisor but do not have the ability to procure one for yourself.

### Right to Response:

1. You have the right to report a violation of the Sex-based Discrimination, Sexual Misconduct, and Interpersonal Violence Policy and have Messiah University respond promptly with the appropriate process, including an investigation.
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.
4. You have the right to choose *not* to report the allegation or crime to the Department of Safety and/or a law enforcement agency.

### 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 assignment, parking assignment, and/or housing assignment.
3. You have the right to request that the University implement a “No Contact Mandate” with the respondent(s).
4. You have the right to all relevant University policies, including “amnesty” and “no retaliation.”
5. You have the right to an advisor 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 request 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 and/or remedies 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.
11. You have the right to receive notification of your rights and all University processes in writing.

## Appendix D – Respondent’s Rights

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Any community member who is accused of discrimination, including any type of interpersonal violence, sex-based 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 and inform you if you are accused of a violation of the Sex-based Discrimination, Sexual Misconduct, and Interpersonal Violence Policy.
2. You have the right to file your own complaint alleging violations of the Sex-based Discrimination, Sexual Misconduct, and Interpersonal Violence Policy that are *not* in retaliation to a complainant.
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 an advisor of your choice to accompany you to all hearings and interviews.
6. You have the right to obtain legal representation.
7. You have a right to be provided with an advisor in a Title IX Misconduct hearing, should you require an advisor but do not have the ability to procure one for yourself.

### 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 assignment, parking assignment, and/or housing assignment.
3. You have the right to request that the University implement a “No Contact Mandate” with the complainant(s).
4. You have the right to all relevant University policies, including “no retaliation.”
5. You have the right to an advisor 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 request 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.
10. You have the right to receive notification of your rights and all University processes in writing.