

Policy Name:	Policy and Grievance Procedures on Non-Discrimination, Sex-Based Harassment and Sexual Violence		
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applicable federal, state, or local law. All requirements and protections are equitably provided to individuals regardless of such protected status(es) or status as a Complainant, Respondent, or Witness. Individuals who have inquiries or complaints about this Policy and Grievance Procedure may contact Mercy's Director of Title IX and Equity Compliance, located in Verrazzano Hall Room 109, or at titleix.equity@mercy.edu or (914) 674-7842; the U.S. Department of Education's Office for Civil Rights at <https://ocrcas.ed.gov/contact-ocr>; or the New York State Division of Human Rights (DHR) at <https://dhr.ny.gov/complaint>.

This Policy and Grievance Procedure on Non-Discrimination, Sex-Based Harassment and Sexual Violence can be found at <https://www.mercy.edu/about/title-ix>, along with information for reporting violations of this Policy.

II. SCOPE OF THIS POLICY AND GRIEVANCE PROCEDURES

This Policy prohibits discrimination on the basis of a person's protected characteristics (as set forth in the Notice of Non-Discrimination above), as well as sex-based harassment, and sexual violence which includes sexual assault, dating violence, domestic violence, and stalking, as well as retaliation, against students, employees, or other individuals who are participating or attempting to participate in its Education Program or Activity, including but not limited to applicants for student admission or employment, and contractors and visitors (hereinafter

State Education Law Articles 129A and B, and New York State, New York City and Westchester County Human Rights Laws;

Provide clear guidelines for reporting incidents of discrimination, sex-based harassment, sexual violence and retaliation and a commitment that a Complainant's privacy will be maintained to the greatest extent possible;

Promptly, effectively, accurately and fairly respond to and investigate allegations that reasonably may constitute discrimination, sex-based harassment and sexual violence, in an effort to remedy the effects of the discrimination, sex-based harassment or sexual violence, and prevent its recurrence. This process includes the utilization of trained, unbiased decision-makers who evaluate all relevant and not otherwise impermissible evidence.

Refer incidents to law enforcement and for disciplinary action

- f. Consent cannot be given when it is the result of any coercion, intimidation, force, or threat of harm.
 - g. Consent may be withdrawn at any time, even after it has been initially given. When consent is withdrawn or can no longer be given, all sexual activity must stop.
8. ***Complainant*** means:
- a. A student or employee who is alleged to have been subjected to conduct that could constitute discrimination or harassment as defined in this Policy

and telephone number. This information shall be prominently displayed on the University's website;

- b. Receiving all complaints that are not strictly confidential, including providing emergency access in the first instance of disclosure by an individual reporting under this Policy;
- c. Overseeing the investigation of complaints;
- d. Ensuring all persons involved in a complaint are advised of their rights, in writing, under State and Federal laws, and this Policy;
- e. Ensuring investigations are handled in a prompt and thorough manner, maintaining confidentiality when requested and where appropriate, and offering privacy for all persons involved to the greatest extent possible;
- f. Keeping the University President and other appropriate senior administrators informed of ongoing investigations, including findings of misconduct and penalties to be imposed under this Policy;
- g. Ensuring appropriate student education and employee training, including for Non-Confidential Employees (defined below), Hearing Officer(s), Appeals Panel members, advisors and individuals facilitating informal resolution, is conducted;
- h. Ensuring a campus climate assessment is conducted in accordance with relevant law;
- i. Monitoring Mercy's education program or activity for barriers to reporting information about conduct that reasonably may constitute sex discrimination and take steps reasonably calculated to address such barriers; and
- j. Ensuring the University's compliance with federal and state reporting obligations.

13. ***Disciplinary Sanctions*** means consequences imposed on a Respondent following a determination under this Policy that the Respondent violated Mercy's prohibition against discrimination and sex-based harassment.

14. ***Discrimination*** is treating an individual differently or less favorably because of their protected characteristics, which include but are not limited to: race, color, creed, national origin, ethnicity, ancestry, religion, age, sex, sexual orientation, sex stereotypes, sex characteristics, gender, gender identity or expression, transgender status, marital status, familial status, partnership status, disability (including HIV/AIDS), genetic information, predisposing genetic characteristics, alienage, citizenship, criminal arrest and conviction records, military or veteran status, salary history, credit history, caregiver status, pregnancy or related conditions, lactation status, sex and reproductive decisions, status as a victim of dating violence/domestic violence/stalking/sex offenses/sex abuse, unemployment status, or any other legally prohibited basis in accordance with federal, state, county and city

laws.³

15. ***Education Program or Activity*** means all of the operations of Mercy University, including

the Respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the Complainant and Respondent does not by itself demonstrate or imply the Complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

19. **Party** means Complainant or Respondent.

20. **Peer Retaliation** means retaliation by a student against another student.

21. **Pregnancy or related conditions** means:

- a. Pregnancy, childbirth, termination of pregnancy, or lactation;
- b. Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or
- c. Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.

22. **Preponderance of evidence** is the standard of evidence used during the investigation and adjudication of discrimination and harassment allegations under this Policy. A preponderance of the evidence means whether it is more likely than not that the discrimination or harassment occurred.

23. **Privacy** is the assurance that an individual or the University will only reveal information about allegations of Sexual Misconduct to those who need to know the information in order to carry out their duties or responsibilities or as otherwise required by law. Individuals who are unable to offer the higher standard of confidentiality under law, but who are still committed to not disclose information more than necessary, may offer privacy.

24. **Relevant** means related to the allegations of discrimination or sex-based harassment under investigation as part of this Grievance Procedure. Questions are relevant when they seek evidence that may aid in showing whether the alleged discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged discrimination occurred.

25. **Remedies** means measures provided, as appropriate, to a Complainant or any other person Mercy identified as having had their equal access to Mercy's Education Program or Activity limited or denied by discrimination or harassment. These measures are provided to restore or preserve that person's access to Mercy's Education Program or Activity after Mercy determines that discrimination occurred.

26. **Respondent** means a person who is alleged to have violated Mercy's prohibition on discrimination.

27. **Retaliation** means intimidation, threats, coercion, or discrimination directed at any person by the University, a student, or an employee or other person authorized by Mercy to provide aid, benefit, or service under Mercy's Education Program or Activity, for the purpose of interfering with any right or privilege secured by federal non-discrimination laws, or because the person has reported information, made a Complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, informal resolution, or hearing under this Policy, or reported any complaint of discrimination with an external agency.

Examples of retaliation may include, but are not limited to:

Demotion, termination, denying accommodations, reduced hours or work responsibilities, or the assignment of less desirable shifts for employees;

Providing grades that are not commensurate with the work performed by a student;

Publicly releasing personnel files or private student information, such as grades or accommodation-status;

Refusing to provide a reference or providing an unwarranted negative reference for employees or students; or

Undermining an individual's immigration status

28. **Sex-Based Harassment** means sexual harassment and other harassment on the basis of sex, including harassment because of gender identity, sexual orientation, sex characteristics, sex stereotypes, and/or pregnancy and other conditions, that is:

(1) **Quid pro quo harassment.** An employee, agent or other person authorized by Mercy'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;

(2) **Hostile environment harassment.** Unwelcome sex-based conduct that, based on the totality of the 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 Mercy's Education Program or Activity

- b. The type, frequency, and duration of the conduct;
- c. The Parties' ages, roles within Mercy's Education Program or Activity, previous interactions and other factors about each Party that may be relevant to evaluating the effects of the conduct;
- d. The location of the conduct and the context in which the conduct occurred; and
- e. Other sex-based harassment in Mercy's Education Program or Activity.

While it is not possible to list all circumstances that might constitute Sexual Harassment, the following are some examples of conduct that might constitute such harassment:

- a. Suggestive body language or inappropriate or unwelcome physical contact that does not qualify as Sexual Assault;
- b. Verbal abuse or offensive comments of a sexual nature, including sexual slurs, sexually explicit statements, questions, jokes or anecdotes, degrading words regarding sexuality or gender, suggestive or obscene letters, notes, or invitations;
- c. Making lewd or sexual comments about an individual's appearance, body, or clothing, or comments that are ostensibly flirtatious;
- d. Visual displays or distribution of sexually explicit drawings, pictures, electronic or written materials;
- e. Displaying nudity or engaging in sexual acts in spaces that can be seen by others;
- f. Undue and unwanted attention, such as repeated inappropriate flirting, staring, or making sexually suggestive comments or gestures; or
- g. Offensive comments regarding a person's sexual orientation, gender identity or gender expression, such as persistent mocking or disparagement of a person based on a perceived lack of stereotypical masculinity or femininity.

Under New York State Human Rights Law, for Mercy University employees, harassment (including sexual harassment) is against the law whenever an individual is subjected to inferior terms, conditions or privileges of employment. The harassment need not be severe or pervasive in order for the University to be liable, although the actions are defensible if they are not more than "petty slights or trivial inconveniences."

(3) ***Sexual Assault*** (as defined in the Clery Act) means any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

- a. Is a current or former partner of the victim under the family or domestic violence laws of New York, or a person similarly situated to a spouse of the victim;
- b. Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
- c. Shared a child in common with the victim; or
- d. Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of New York.

(6) **Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

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

29. **Sexual Violence** is a term that encompasses sexual assault, dating violence, domestic violence and stalking.

30. **Student** means a person who has gained admission to Mercy University.

31. **Supportive Measures** means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to:

- a. Restore or preserve that Party's access to Mercy's Education Program or Activity, including measures that are designed to protect the safety of the Parties or Mercy's educational environment; or
- b. Provide support during Mercy's Grievance process.

The following non-confidential Mercy employees who receive information about conduct that reasonably may constitute discrimination, sex-based harassment or sexual violence must immediately report the incident to the Director of Title IX and Equity Compliance (collectively known as “Required Reporters”):

1. ACCESSibility Staff⁵
2. Administrators, including but not limited to:
 - a. Staff Officers
 - b. Provost, Associate Provosts, Deans, Associate Deans
 - c. Academic Unit Heads, including Chairs and Program Directors
 - d. Executive Directors and Directors
 - e. Managers and Supervisors
3. Admissions staff
4. Athletic Department Staff
5. Campus Safety Staff
6. Faculty (including core and adjuncts)
7. Financial Services staff
8. Human Resources Staff
9. PACT counselors
- 10.

These individuals will not report the allegations to the Director of Title IX or other Mercy employees without the student's permission. The only exception is in the case where there is an imminent threat of serious injury to the complainant or another person.

If a student speaks solely to a confidential employee, the University will be limited in its ability to conduct an investigation into the allegations or pursue disciplinary action against the Respondent. Confidential employees will assist students in obtaining other necessary support.

2. *Employee Complainants.* Although Mercy does not directly employ individuals to whom Mercy employees can speak on a confidential basis regarding Sexual Misconduct, free confidential support services are available through the Employee Assistance Program (EAP), which is administered by an outside company. Confidential community counseling resources are also available throughout Westchester County and New York City. *See Appendix C.*

Complainants may use these confidential resources even if they decide not to report allegations of sexual violence or participate in an investigation, Mercy's informal resolution process or the criminal justice process. A complainant who first speaks to a confidential resource may later decide to report allegations to the University or with outside law enforcement.

Note: Under the Clery Act, the University is required to maintain records, advise the government about reports of certain crimes and issue timely warnings when there is a serious, continuing threat to the community. Such reports and warnings do not disclose identifying information.

D.

Compliance

H. Disability Accommodations in Application of this Policy

This Policy does not alter Mercyø's obligations under applicable federal, state and local disability laws, including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973, among others. Parties may request reasonable accommodations for disclosed disabilities to the Director of Title IX and Equity Compliance at any point before or during the procedures herein that do not fundamentally alter the Procedures. The Director of Title IX and Equity Compliance will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities.

If the Complainant or Respondent discloses a disability, the Director of Title IX

A. Providing Supportive Measures

Complainants who report allegations of discrimination and sex-based harassment have the right to receive supportive measures from Mercy regardless of whether they file a complaint. Supportive measures are non-disciplinary and non-punitive. Supportive measures may vary depending upon what is reasonably available at Mercy. As appropriate, supportive measures may include without limitation:

Counseling services

Extensions of deadlines or other course-related adjustments

Modifications of work or class schedules

Campus escort services, as available

Restrictions on contact applied to one or more Parties (no contact orders)

Changes in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative

Leaves of absence

Increased security and monitoring of certain areas of the campus

Training and education programs related to discrimination and sex-based harassment

Assistance by Mercy's campus safety in obtaining an order of protection with local law enforcement authorities or court processes.

Act (FERPA) (20 U.S.C. 1232g, or its implementing regulations, 34 CFR Part 99).

B. Orders of Protection and Their Equivalent:

If Mercy receives a copy of an order of protection or its equivalent (for example, restraining order), it must provide a copy of the order to both Parties. The Parties shall have the opportunity to meet or speak with the director of Title IX and Equity Compliance, who can explain the order and answer questions about it, including information from the order about the Accused's/Respondent's responsibility to stay away from the protected person or persons. Parties are entitled to an explanation of the consequences for violating these orders, including without limitation, arrest, additional conduct charges, and interim suspension or emergency removal, as applicable. A Complainant is also entitled to receive assistance from University Campus Safety in calling on and assisting local law enforcement in effecting an arrest for violating such order, in accordance with limits on current law enforcement jurisdiction and procedures.

C. Process for Review of Supportive Measures

Mercy provides for a Complainant or Respondent to seek modification or reversal of Mercy's decision to provide, deny, modify or terminate a supportive measure. Grounds for challenge of supportive measures include, but are not limited to:

- Whether a supportive measure is reasonably burdensome;
- Whether a supportive measure is reasonably available;
- Whether a supportive measure is being imposed for punitive or disciplinary reasons;
- Whether the supportive measure is being imposed without fee or charge; and
- Whether the supportive measure is effective in meeting the purposes for which it is intended, including to restore or preserve access to the Education Program or Activity, provide safety, or provide support during the Grievance Procedure.

Request for a modification or reversal of a supportive measure must be timely and should be submitted within five (5) days to the Director of Title IX and Equity Compliance, who will ensure that the review is conducted by the relevant vice president or dean, depending on the status of the Respondent. The vice president or dean shall be an impartial em2(oe)4(0 0 1 30t0e)4(03(11)dS)-1(nuETQETQq(

3. Make a decision about whether or not to disclose a crime or violation and participate in the judicial or conduct process and/or criminal justice process free from pressure by the institution;
4. Participate in a process that is fair, impartial, and provides adequate notice and a meaningful opportunity to be heard;
5. Be treated with dignity and to receive from the institution courteous, fair, and respectful health care and counseling services, where available;
6. Be free from any suggestion that the Reporting Individual is at fault when these crimes and violations are committed, or should have acted in a different manner to avoid such crimes or violations;
7. Describe the incident to as few institution representatives as practicable and not be required to unnecessarily repeat a description of the incident;
8. Be protected from Retaliation by the institution, any Student, the Accused and/or the Respondent, and/or their friends, family and acquaintances within the jurisdiction of the institution;
9. Access to at least one level of appeal of a determination;
- 10.

of a Respondent from campus or imposition of another disciplinary sanction to end the sex-based harassment/sexual violence and prevent its recurrence;

5. What is the timeframe for Mercy to evaluate if the Director of Title IX is initiating an investigation under this Grievance Procedure?

The Director of Title IX must evaluate whether the complaint falls under this Grievance Procedure within five (5) days after the complaint is made and must issue the Notice of Allegations as soon as practicable after the complaint is evaluated. If there are any delays or extensions, the Director of Title IX must appropriately provide notice to the Parties in writing, on a case-by-case basis, with good cause and the rationale for the extension or delay.

6. Can I make a Complaint and request initiation of the Grievance Procedure even if I have made a complaint to law enforcement?

Yes. Mercy has an obligation to appropriately evaluate all complaints, regardless of whether there is a concurrent or prior complaint before law enforcement. This process is an administrative process that is different from the criminal justice process. Per New York state law, it is required that Mercy's process run concurrently with a criminal justice investigation and proceeding, however, temporary delays are allowed as requested by external municipal entities while law enforcement gathers evidence. Temporary delays should not last more than ten days except when

E. Dismissal of a Complaint

1. Grounds for Dismissal

Mercy may dismiss a complaint of sex-based harassment or sexual violence for any of the following reasons:

Mercy is unable to identify the Respondent after taking reasonable steps to do so;
The Respondent is not participating in Mercy's Education Program or Activity and is not employed by Mercy;
The Complainant voluntarily withdraws any or all of the allegations in the complaint, the Director of Title IX declines to initiate a complaint of these procedures, and Mercy determines that, without the Complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex-based harassment or sexual violence under this Policy and grievance procedure even if proven; or
Mercy determines that the conduct alleged in the complaint, even if proven, would not constitute sex-based harassment or sexual violence under this Policy grievance procedure. Note: Mercy must make reasonable efforts to clarify the allegations with the Complainant before dismissing under this basis.

2. Notice of Dismissal

If Mercy dismisses a complaint, Mercy shall promptly notify the Complainant of the basis for dismissal.

If the dismissal of the complaint occurs before a Notice of Allegations is issued to the Respondent, the Director of Title IX does not need to provide notice to the Respondent at that time. However, if the Complainant appeals the dismissal, the Respondent will need to be noticed of the complaint allegations and given an opportunity to respond to the dismissal.

If the dismissal occurs after the Respondent has been notified of the allegations, then Mercy must notify the Respondent and Complainant of the dismissal and the basis for the dismissal simultaneously in writing.

Appeal rights must also be outlined in any notification of dismissal of a complaint, as included below under *Appeal of Dismissals*.

3. Appeals of Dismissals

Mercy must notify the Complainant that a dismissal may be appealed and provide the Complainant with an opportunity to appeal the dismissal of a complaint on the following grounds:

Procedural irregularity: procedural irregularity that affected the outcome of the matter (i.e., a failure to follow Mercy's own policy to a degree that had material effect on the outcome of the matter);

opportunity to present Relevant and not otherwise impermissible evidence to a trained,
impartial decisionmaker;
Parties

H. The Investigation

1. *General Rules of Investigations*

Note: Disclosures of information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex-based harassment or sexual violence are authorized and not considered unauthorized disclosures potentially subject to other disciplinary action.

4. *Review and Access to Relevant and Not Otherwise Impermissible Evidence*

Each Party will have an equal opportunity to present fact witnesses and other inculpatory and exculpatory evidence that are Relevant and not otherwise impermissible, to the Director of Title IX and/or designee. The Director of Title IX or designee will review all evidence gathered through the investigation and determine what evidence is Relevant and what evidence is impermissible regardless of relevance, consistent with this Grievance Procedure.

Each Party and their advisors of choice will have an equal opportunity to review and access the evidence that is Relevant to the allegations of sex-based discrimination or sexual violence and not otherwise impermissible regardless of relevance prior to the conclusion of the investigation. The Director of Title IX and/or designee will provide each Party with a reasonable opportunity to respond to the evidence.

Mercy will take reasonable steps to prevent and address the Parties' unauthorized disclosure of information and evidence obtained solely through this Grievance Procedure. Participating individuals who engage in the unauthorized disclosure of information and evidence obtained solely through this Grievance Procedure may be subject to Mercy's Student Code of Conduct, and other applicable University policies, procedures and/or Handbooks that may apply.

Note: Disclosures of information and evidence for purposes of administrative proceedings or litigation related to the complaint of sex-based harassment or sexual violence are authorized and not considered unauthorized disclosures potentially subject to other disciplinary action.

5. *Relevant Evidence*

Evidence is r

decisionmakerø

3. *Communication of the Determination in Writing*

All determinations on whether sex-based harassment or sexual violence occurred will be communicated to the Parties in writing, simultaneously.

The written determination will include:

A description of the alleged sex-based harassment/sexual violence;
Information about the policies and procedures that Mercy used to evaluate the allegations;
The Director of Title IX's evaluation of the relevant evidence and determination on whether Sex-Based Harassment occurred; and
Mercy's procedures for Complainant and Respondent to appeal.

4. *Timeline of Determination Regarding Responsibility*

If there are no extenuating circumstances, the determination regarding responsibility will be issued by Mercy within ten (10) days of the completion of the last interview.

5. *Past Findings of Sexual Violence*

In accordance with New York State law, past findings of domestic violence, dating violence, stalking, or sexual assault may be admissible in the disciplinary stage that determines sanction. However, it is not admissible prior to determination of responsibility.

In addition, the Complainant will have an opportunity to make an impact statement during the point of the proceeding where the decisionmaker is deliberating on appropriate sanctions.

6. *Finality of Determination*

The determination regarding responsibility becomes final either on the date that Mercy provides the Parties with the written determination of the result of any appeal, or, if no Party appeals, the date on which an appeal would no longer be considered timely.

7. *Disclosures of Outcome by the Parties*

The Complainant and Respondent have the right to choose whether to disclose or discuss the outcome of a conduct or judicial process related to sex-based harassment or sexual violence. The Complainant and Respondent have the right to have all information obtained during the course of the conduct or judicial process be protected from public release until the appeals panel makes a final determination unless otherwise required by law.

K. Code Charges Under these Grievance Procedures

1. *Code Charge 1: Sex-Based Harassment*: sexual harassment and other harassment on the basis of sex, including harassment because of gender identity, sexual orientation, sex characteristics, sex stereotypes, and/or pregnancy and other conditions, that is:

- A. *Quid pro quo harassment.* An employee, agent or other person authorized by Mercy'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;

- B. *Hostile environment harassment.* Unwelcome sex-based conduct that, based on the totality of the 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 Mercy's Education Program or Activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
 - (i) The degree to which the conduct affected the Complainant's ability to access Mercy's Education Program or Activity;
 - (ii) The type, frequency and duration of the conduct;
 - (iii) The Parties ages, roles at Mercy, previous interactions and other factors that may be relevant to evaluating the effects of the conduct
 - (iv) The location of the conduct and the context in which the conduct occurred; and
 - (v) Other sex-based harassment or sexual violence committed in Mercy's Education Program or Activity.

2. *Code Charge 2: Sexual Assault:* as defined in the Clery Act, meaning any sexual act directed against another person,381(m)-11(e)4(a)4(ning)-11()-79(a)4(ny)-79(se)3(x)-9(ua)4(1)-81(a)-5(c)4(02t

5. *Code Charge 5: Stalking*: engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (A) fear for the person's safety or the safety of others; or (B) suffer substantial emotional distress.

L. Disciplinary Sanctions After Finding of Responsibility

1. Action Against Student Respondents

The Director of Title IX Director must provide the determination of finding of responsibility against a student to the Vice President for Student Affairs. Following receipt of the determination finding responsibility under these Grievance Procedures, the Vice President for Student Affairs, when warranted by the facts, authorize such action as they deem necessary, including action to correct the effects of the conduct investigated or prevent further harm to an affected party or others similarly situated. Sanctions for student Respondents range from a warning, to suspension or expulsion from the University, as well as suspension or removal from housing, and imposing no-contact orders.

When the Vice President for Student Affairs recommends discipline against a student for violations of this Policy, the matter is referred to the Office of Community Standards and Student Conduct and action must be taken in accordance with the Judicial Process in the Student Handbook. When a finding results in a penalty of expulsion or suspension for one term or more, the respondent must be barred from attendance at Mercy while the penalty is being served. Students may also be subject to Mercy's policy on transcript notations, discussed in Section N below.

2. Action Against Employee Respondents

The Director of Title IX must provide the determination of finding of responsibility to the Executive Director of Human Resources. Following receipt of the report finding responsibility under these Grievance Procedures, the Director of Human Resources must, in consultation with other relevant officials including the Provost and/or school dean when faculty are involved, when warranted by the facts, authorize such action as they deem necessary, including action to correct the effects of the conduct investigated or prevent further harm to an affected party or others similarly situated. In cases where the Executive Director of Human Resources recommends discipline against an employee, the matter is referred for disciplinary action in accordance with any applicable University handbooks, policies, rules and collective bargaining agreements. Penalties for employees include, depending on the employee's title, reprimand, suspension, demotion, fine, or termination of employment following applicable disciplinary procedures.

3. Action Against Visitors and Contractors

In cases where the Respondent is found responsible of violations of this Policy is not a Mercy student or employee, the University's ability to take action against the Respondent is usually limited. The University will, however, take appropriate actions within its control, such as

restricting the visitor's access to campus and campus events and activities. If the Respondent is a contractor, Mercy may ask that that individual be removed from Mercy's account.

M. Appeals of Determinations

Each Party may appeal a determination regarding responsibility. The Director of Title IX shall inform the Parties of their right to appeal the decision. To appeal, a Party must submit their written

P.

Mercy's obligation to address sex discrimination, including sex-based harassment and sexual violence, in its Education Program or Activity;

The scope of conduct that constitutes sex discrimination, including sex-based harassment and sexual violence, under Title IX, including the definition of sex-based harassment/sexual violence;

All applicable notification and information requirements related to parental, family, or marital status, including pregnancy and related conditions, and Mercy's response to sex discrimination;

The rules and practices associated with Mercy's informal resolution process; and

How to serve impartially, including by avoiding conflicts of interest and bias.

5. *Contents of Informal Resolution Agreements*

Potential terms that may be included in an informal resolution agreement between the Parties include but are not limited to:

Restrictions on contact; and

Restrictions on the Respondent's participation in one or more of Mercy's education programs or activities or attendance at specific events, including restrictions Mercy could have imposed as remedies or disciplinary sanctions had Mercy determined at the conclusion of the Grievance Procedures that sex-based harassment or sexual violence occurred.

6. *Breach of Informal Resolution Agreements*

If a Party breaches the resolution or if Mercy has other compelling reasons, such as if it learns of any fraud by a Party in entering into the agreement, Mercy may void the agreement and initiate or resume the Grievance Procedures.

7. *Confidentiality:*

In entering the informal resolution process, the Parties agree that any testimony and evidence (including admissions of responsibility) they share or receive during the informal resolution process concerning the allegations of the complaint are confidential while the Parties participate in the informal resolution process. No evidence concerning the allegations obtained within the informal resolution process may be disseminated to any person, provided that any Party

8. *Informal Resolution Options*

Mercy offers the following informal resolution procedures for addressing complaints of sex-based harassment or sexual violence described under this Grievance Procedures:

a. Administrative Resolution

Should the Parties mutually determine to enter the informal resolution process, and the Respondent elects to accept responsibility for the allegations of the complaint at any point during the informal resolution process, the institution may administratively resolve the complaint.

Where the Respondent admits responsibility, the Parties will receive simultaneous written notification of the acceptance of responsibility, and the Title IX and Equity Appeal Panel will convene to determine the Respondent's sanction and other remedies, as appropriate and consistent with institutional policy. The Parties will be given an opportunity to be heard at the sanctions

VIII.

A. Filing a Complaint

1. *Who can make a Complaint?*

A student or employee of Mercy who is alleged to have been subjected to conduct that could constitute discrimination under federal, state or local laws, including based on sex, race, ethnicity and religion, for example.

An employee who alleges discriminatory harassment, which for the purpose of this Grievance Procedure, includes sex-based harassment, and sexual assault, domestic violence, dating violence, and stalking (sexual violence). Note: students who allege sex-based harassment or sexual violence shall have their complaint addressed through the Grievance Procedures set forth in Section VI above.

A person other than a student or employee, including an applicant for employment or student admission, a contractor or a visitor of Mercy who is alleged to have been subjected to conduct that could constitute discrimination or harassment under this Policy at a time when that individual was participating or attempting to participate in Mercy's Education Program or Activity;

A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a Complainant; or

The Director of Title IX and Equity Compliance.

2. *Director of Title IX Coordinator and Equity Compliance initiated Complaints:* In the absence of a Complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process, the Director of Title IX and Equity Compliance must determine whether to initiate a complaint of discrimination. This determination is fact-specific, and the Director of Title IX and Equity Compliance must consider:

The Complainant's request not to proceed with the initiation of a complaint;

The Complainant's reasonable safety concerns regarding initiation of a complaint;

The risk that additional acts of discrimination or harassment would occur if a complaint were not initiated;

The severity of the alleged discrimination or harassment, including whether the discrimination or harassment, if established, would require the removal of a

C. Dismissal of Complaint

1. Bases for Dismissal

Mercy may dismiss a complaint of discrimination or harassment for any of the following reasons:

Mercy is unable to identify the Respondent after taking reasonable steps to do so;
The Respondent is not participating in Mercy's Education Program or Activity and is not employed by Mercy;

Parties when the relevant evidence is ready for inspection and the Parties will be permitted to access the evidence.

an opportunity to question any party or witness whose credibility is in dispute in a live format.

The Director of Title IX and Equity Compliance will question Parties and witnesses to adequately assess a Party's or witness's credibility to the extent credibility is both in dispute and Relevant to evaluating one or more allegations of sex discrimination. This will occur during individual meetings with a Party or witness.

Each Party shall have the opportunity to propose questions that the Party wants asked of any Party or witness and have those questions asked by the investigator/decisionmaker during one or more individual meetings, including follow-up meetings, with a Party or witness, subject to the appropriate procedures outlined herein regarding the decisionmaker's advance evaluation of all questions. Each Party will be provided with an audio or audiovisual recording or transcript with enough time for the Party to have a reasonable opportunity to propose follow-up questions.

4. *Determination Regarding Responsibility*

Following an investigation and evaluation of all relevant and not otherwise impermissible evidence, Mercy will:

Use the

- Coordinate the provision and implementation of remedies to a Complainant and other people Mercy identifies as having had equal access to Mercy's Education Program or Activity limited or denied by discrimination or harassment;
- Coordinate the imposition of any disciplinary sanctions on a Respondent, including notification to the Complainant of any such disciplinary sanctions; and
- Take other appropriate, prompt and effective steps to ensure that discrimination or harassment does not continue or recur within Mercy's Education Program or Activity.

Comply with the grievance procedure before the imposition of any disciplinary sanctions against a Respondent; and

H. Disciplinary Sanctions After Finding of Responsibility

1. Action Against Student Respondents

The Director of Title IX Director and Equity Compliance must provide the determination of finding of responsibility against a student

I. Appeal of Dismissals and Determinations

Each Party may appeal a determination regarding responsibility. The Director of Title IX and Equity Compliance shall inform the Parties of their right to appeal the decision. To appeal, a Party must submit their written appeal within five (5) days of being notified of the decision, indicating the grounds for appeal.

1. Grounds for Appeals

Appeals from a determination of discrimination or harassment or dismissal of a complaint may be made on the following grounds:

Procedural irregularity: procedural irregularity that affected the outcome of the matter (i.e., a failure to follow Mercy's own policy to a degree that had material effect on the outcome of the matter);

New evidence: New evidence that would change the outcome and that was not reasonably available at the time of the determination.

Notify the Parties of the result of the appeal and the rationale for the result.

When a complaint is dismissed, Mercy will, at a minimum:

Offer supportive measures to the Complainant as appropriate.

If the Respondent has been notified of the allegations, offer supportive measures to the Respondent as appropriate; and

Take other prompt and effective steps, as appropriate, through the Director of Title IX and Equity Compliance to ensure that sex discrimination does not continue or recur within Mercy's Education Program or Activity.

The submission of appeal stays (or pauses) any sanctions for the pendency (or duration while the appeal is being deliberated and decided upon) of an appeal. Supportive measures and remote learning opportunities remain available during the pendency of the appeal.

If a Party appeals, Mercy will as soon as practicable notify the other Party in writing of the appeal, however the time for appeal shall be offered equitably to all Parties and shall not be extended for any Party solely because the other Party filed an appeal.

Appeals will be decided by Mercy's Title IX and Equity Appeals Panel, who will be free from bias or conflict. The outcome of the appeal will be provided in writing simultaneously to both Parties and include rationale for the decision. The Appeals Panel will make a recommendation to the University President regarding whether the dismissal or determination shall be sustained or not. The President's determination on the matter shall be final.

J. Informal Resolution

1.

risk of harm to others, and whether the Parties are participating in good faith. This determination is not subject to appeal.

At any time after the commencement of the informal resolution process, the

The purpose of mediation is for the Parties who are in conflict to identify the implications of a student's actions and, with the assistance of a trained facilitator, identify points of agreement and appropriate Remedies to address them. Either Party can request mediation to seek resolution; mediation will be used only with the consent of both Parties, who will be asked not to contact one another during the process. The Director of Title IX will also review any request for mediation, and may decline to mediate based on the facts and circumstances of the particular case. Either Party has the right to terminate the mediation process and choose or resume another option for resolution at any time.

The mediation process will typically commence within ten (10) days after the Title IX Office receives consent to mediate from both Parties and has made its determination to allow informal resolution to go forward. Mediation will continue until concluded or terminated by either Party, the facilitator, or the Title IX Office. During mediation, any potential investigation will halt, and calculations for time frames will be stayed. If the mediation results in a resolution, the disciplinary process will be concluded, and the matter will be closed. If a resolution cannot be reached, the matter will be referred to the Associate Dean for Student Affairs to re-evaluate other options for resolution, including investigation or proceeding forward with the Grievance Procedures.

During mediation, a facilitator will guide a discussion between the Parties. In circumstances where the Parties do not wish to meet face to face, either Party can request "caucus" mediation, and the facilitator will conduct s/F3 12 Tl46 521.55 Tm0 g1r8 (lo521.83 Tm0-151o(a)4(200000912 0 612 792 re004800

B. Reporting and Other Actions by Bystanders

While many employees are required reporters pursuant to this Policy, Mercy University encourages all other employees, students and community members to report incidents of discrimination, sex-based harassment and sexual violence that they observe or become aware of to the Director of Title IX and Equity Compliance so that Mercy may take appropriate steps to eliminate the alleged discrimination and assist a complainant in obtaining the appropriate supportive measures they need. Bystanders who choose to exercise this positive moral obligation will be supported by the University and shall be protected from retaliation. Mercy also encourages bystanders who witness discrimination, sex-based harassment and sexual violence to take reasonable and prudent actions to prevent or stop the conduct. Actions may include direct intervention, calling law enforcement, or seeking assistance from a person in authority.

C. Reporting Retaliation

Any individual who believes he/she/they have been retaliated against for making a report under this Policy, assisting someone making a report, or participating in any manner in an investigation, hearing or resolution of a complaint under this Policy may file a complaint with the Director of Title IX and Equity Compliance. All retaliation complaints will be investigated in accordance with the investigation procedures set forth in this Policy, and individuals who are found to have engaged in retaliation will be subject to disciplinary action.

D. No Contact Orders

No Contact Orders are directives issued by the University prohibiting intentional contact or communication between specified parties. An individual who intentionally violates a No Contact Order is in violation of Mercy Policy and will be subject to disciplinary action. No Contact Orders may be issued for both complainants and respondents, as well as other individuals as appropriate. No Contact Orders are issued by the Vice President of Student Affairs or their designee (for students) and the Director of Human Resources or their designee (for employees). The mere granting of a no contact order is not a finding of fault by either Party.

E. Timing

The University will make every reasonable effort to ensure that the investigation and resolution of a complaint is carried out as timely and efficiently as possible. A good-faith effort will be made ()JTJETQq0.000

F. False and Malicious Allegations

Members of the Mercy University community who make false and malicious complaints of discrimination, sex-based harassment or sexual violence, as opposed to complaints which, even if erroneous, are made in good faith, may be subject to disciplinary action under this and other policies at the University. Finding a person in violation of University policy for making a materially false statement in bad faith in the course of an investigation does not constitute retaliation on the part of the College. A determination regarding responsibility, in and of itself, is not sufficient to conclude that any party made a bad faith materially false statement.

G. Recordkeeping

All records related to the Mercy's response to allegations of discrimination, sex-based harassment and sexual violence must be maintained for seven (7) years from the last action on a matter, unless

The Studentsø Bill of Rights, which is incorporated into this Policy, must be distributed to any

- "not responsible" until a determination regarding responsibility is made at the conclusion of the applicable processes;
- g. The scope of the University's education programs and activities;
 - h. The effects of trauma; and
 - i. Other relevant University policies and procedures.

3. Student Onboarding and Ongoing Education

The University shall adopt a comprehensive student onboarding and ongoing education campaign to educate students about discrimination, sex-based harassment and sexual violence, including domestic violence, dating violence, stalking, and sexual assault. During the student onboarding process, all new first-year and transfer students must receive training on this Policy and on a variety of topics relating to discrimination, sex-based harassment and sexual violence. In addition, the University shall offer and administer appropriate educational programming to residence hall students, athletes, and student leaders. The University must also provide such educational programming to any other student groups which the University determines could benefit from education in the area of discrimination, sex-based harassment and sexual violence. The University must also share information on domestic violence, dating violence, ual violence

or employee is required to evaluate the work or make personnel or academic decisions with respect to a student with whom they are having an intimate relationship.

Therefore, faculty members and other employees are prohibited from engaging in intimate relationships with students for whom they have a professional responsibility, including undergraduates and graduate students.

For purposes of this Section, professional responsibility for a student means responsibility over any academic matters, including teaching, counseling, grading, advising for a formal project such as a thesis or research, evaluating, hiring, supervising, coaching, making decisions or recommendations that confer benefits such as admissions, registration, financial aid, other awards, remuneration, or fellowships, or performing any other function that might affect teaching, research, or other academic opportunities.

B. Relationships Between Supervisors and Employees

Many of the concerns about intimate relationships between employees and students also apply to relationships between supervisors and employees they supervise. Those relationships therefore are prohibited. Supervisors must disclose any such relationships to the Office of Human Resources in order to avoid or mitigate conflicts of interest in connection with the supervision and evaluation of the employees with whom they have an intimate relationship.

For purposes of this Section, supervising an employee means supervising in an employment setting, including hiring, evaluating, assigning work, or making decisions or recommendations that confer benefits such as promotions, raises or other remuneration, or performing any other function that might affect employment opportunities—even if the supervision is remote.

XI. IMPLEMENTATION

This Policy applies to discrimination, sex- based harassment and sexual violence that is alleged to have occurred on or after August 1, 2024. Such incidents alleged to have taken place before the effective date of this Policy will be handled in accordance with the *Mercy University Sexual Misconduct Policy* and the *Policy on Equal Opportunity and Non-Discrimination* that was in effect at the time the behavior occurred.

Should any portion of the 2024 Title IX Regulations be stayed or held invalid by a court of law, or should the Title IX Final Regulations be withdrawn or modified to not require the elements of this Policy, the invalidated elements of this Policy will be deemed revoked as of the publication date of the opinion or order.

As required by federal and state law, Mercy shall:

Treat Complainants and Respondents **equitably**.

Ensure that Mercy's Director of Title IX and Equity Compliance, investigator, decisionmaker or facilitator of an informal resolution process **does not have a conflict of interest or bias** for or against Complainants or Respondents generally or an individual Complainant or Respondent.

Impose Grievance Procedures that include a **presumption that the Respondent is not**

- There is **equal opportunity** for all parties to present fact witnesses and other inculpatory and exculpatory evidence that is relevant and not otherwise impermissible;
- A **determination**

- Not disciplining a party, witness, or other participant for making a **false statement** or for engaging in consensual sexual conduct based solely on the determination of whether sex discrimination occurred.

Offer an **opportunity to appeal a dismissal or determination.**

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Simultaneously providing written notice to the parties of the determination that includes a description of the allegations, information about the policies and procedures used to evaluate the allegations, the decisionmaker's evaluation of the relevant and not otherwise impermissible evidence and determination whether sex-based harassment occurred, disciplinary sanctions and remedies if relevant, and information about appeal procedures.

An opportunity to **appeal a dismissal or determination** based on procedural irregularity that would change the outcome, new evidence that would change the outcome and that was sex not reasonably that

APPENDIX C

MERCY

Metropolitan Hospital Center, 1901 First Avenue, (212) 423-8993
Mount Sinai Beth Israel, First Ave at 16th Street, (212) 420-2873
Mount Sinai Hospital, One Gustave L. Levy Place, (212) 241-7005
Mount Sinai Morningside, 1111 Amsterdam Avenue, (212) 523-4295
New York-Pres. Hospital, Columbia Pres. Center, 622 West 168th Street, (212) 305-2500
New York-Pres. Hospital, Weill Cornell Center, 525 East 68th Street, (212) 746-5454

Queens

Elmhurst Hospital Center, 79-01 Broadway, (718) 334-4000
Queens Hospital Center, 82-68 164th Street, (718) 883-2350

Brooklyn

Coney Island Hospital, 2601 Ocean Parkway, (718) 616-3000
Kings County Hospital Center, 451 Clarkson Avenue, (718) 245-3901
Woodhull Medical & Mental Health Center, 760 Broadway, (718) 963-8101

Staten Island

Richmond University Medical Center, 355 Bard Avenue, (718) 818-2413

COMMUNITY RESOURCES

The following community resources offer confidential resources for victims of sexual assault, domestic violence, and other forms of sexual violence. Services include 24/7 hotlines; counseling; advocacy; legal assistance; shelter; medical care; HIV and STD screenings; and assistance working with local police, courts, and area hospitals.

WESTCHESTER

WestCOP – Victim Assistance Services

Office: (914)345-3113
24/7 Hotline: (914) 345-311, Spanish available
24/7 Toll Free Hotline: (855) 827-2255, Spanish available

www.westcop.org

Hope's Door

Office: (914) 747-0818
24/7 Hotline: (888) 438-8700, Spanish available

www.HopesDoorNY.org

My Sister's Place

24/7 Hotline: (800) 298-7233, Spanish available

www.mspny.org

Putnam/Norther Westchester Women's Resource Center

4/7 Hotline: (845) 628-2166, Spanish available

www.pnwwrc.org

Westchester County Office for Women

Office: (914) 995-5972, English
Office: (914) 995-2099, Spanish
After Hours: (914) 995-2099
Sexual Assault Hotline 24/7: (833) 220-2444

NEW YORK CITY

Bronx DA's Office – Crime Victim's Assistance Unit

198 East 161st St. –

Pace Law School Women's Justice Center (914) 287-0739
Legal Services of Hudson Valley (877) 574-8529
My Sister's Place Legal Center (914) 948-8466
Westchester Hispanic Coalition (914) 948-8466
Empire Justice Center (914) 422-4329
SurvJustice: