

Civil Rights Equity Policy and Resolution Process

Members of the University community, guests, and visitors have the right to be free from sexual violence and discrimination. All members of the University community are expected to conduct themselves in a manner that does not infringe upon the rights of others. The University Civil Rights Equity policy has been developed to reaffirm this expectation and to provide recourse for those individuals whose rights have been violated. The University maintains a policy of zero tolerance for sexual misconduct regardless of the sexual orientation or gender identity of individuals engaging in sexual activity. Zero tolerance means the University will remedy all unwelcome conduct of a sexual nature and will impose serious sanctions on anyone who violates this policy. Resolution by the University is intended to bring an end to harassing or discriminatory conduct, prevent its recurrence, and remedy the effects on the victim and the community. This policy has dual purposes; as a guide for students on the University's expectations, preventatively, for sexual communication and interaction, responsibility, and respect; and it serves as a measure to determine, after-the-fact, if behaviors trespassed on community values.

While the policy below is quite detailed and specific, the expectations of this university community can be summarized in this simple paragraph: Consent is clear sexual permission and can only be given by one of legal age. Consent can be given by word or action, but non-verbal consent is more ambiguous than explicitly stating one's wants and limitations. Consent to one form of sexual activity should not, and cannot, be taken as consent to any other sexual activity. Individuals who consent to sex must be able to fully understand what they are doing. Under this policy, "No" always means "No" and "Yes" may not always mean "Yes." For example, when alcohol or other drugs are used, a person will be considered unable to give valid consent if the person cannot appreciate the who, what, where, when, why, or how of a sexual interaction. In addition, silence - without clear actions demonstrating permission - cannot be assumed to indicate consent.

Violations of the University Civil Rights Equity Policy

Sexual misconduct and discrimination are serious offenses and such violations are subject to any combination of conduct sanctions as described in the Code of Student Conduct - [Section 8M: Conduct Sanctions](#), with individuals who are found responsible for violation of the nonconsensual sexual intercourse policy facing a recommended sanction of University suspension or University expulsion. Deviations from this range are rare and only made where there are compelling mitigating circumstances. Suspensions, if given, are based on satisfying conditions rather than solely on a period of time. Predatory, pattern, and/or repeat offenders face expulsion, which is also available for any serious offense whether pattern, predatory, or repeat offending is evidenced or not. The other forms of sexual misconduct defined below cover a range of behaviors, and therefore a range of sanctions from warning to expulsion can be applied, depending on the nature of the misconduct. Acts of sexual misconduct may be committed by any person upon any other

person, regardless of the sex, sexual orientation, and/or gender identity of those involved. Violations include:

1. **Sexual Harassment** is defined as unwelcome conduct of a sexual nature. The University encourages the reporting of all sexual harassment to the Title IX co-coordinator ([referenced here](#)). The University will promptly and effectively remedy all instances of reported sexual harassment by providing resources to the victim and addressing the effects on the victim and the community. To impose discipline on a harasser, sexual harassment must also meet the definition of hostile environment, quid pro quo, or retaliation defined immediately below:
 - *Hostile Environment* includes situations where harassment is sufficiently severe, pervasive or persistent, and objectively offensive that it unreasonably interferes with, limits or denies the ability to participate in or benefit from the University's educational or employment program or activities. Sanctions can be imposed for the creation of a hostile environment. The determination of whether an environment is "hostile" must be based on all the circumstances. These circumstances could include, but are not limited to:
 - The frequency of the speech or conduct;
 - The nature and severity of the speech or conduct;
 - Whether the conduct was physically threatening;
 - Whether the speech or conduct was humiliating;
 - The effect of the speech or conduct on the alleged victim's mental and/or emotional state;
 - Whether the speech or conduct was directed at more than one person;
 - Whether the speech or conduct arose in the context of other discriminatory conduct;
 - Whether the speech or conduct unreasonably interfered with the alleged victim's educational or work performance;
 - Whether a statement is a mere utterance of an epithet, which engenders offense in an employee or a student or offends by mere discourtesy or rudeness.
 - *Quid Pro Quo sexual harassment* exists when there are unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature where submission to, or rejection of, such conduct results in adverse educational or employment action. Quid pro quo harassment may also exist when a threat of adverse action or a promise of a benefit is explicitly conditioned on submission to, or rejection of, such requests.
 - *Retaliation* exists when an individual harasses, intimidates, or takes other adverse action(s) against a person because of the person's participation in an investigation of discrimination or sexual misconduct or their support of someone involved in an investigation of discrimination or sexual misconduct.

Retaliatory actions include, but are not limited to, threats or actual violence against the person or their property, adverse educational or employment consequences, ridicule, intimidation, bullying, or ostracism. The University will impose sanctions on any student found to be engaging in retaliation.

2. ***Discriminatory and Bias-Related Harassment:*** Harassment constitutes a form of discrimination that is prohibited by University policy as well as the law. Mount Union condemns and will not tolerate discriminatory harassment against any employee, student, visitor, or guest on the basis of any status protected by policy or law. Mount Union will remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a hostile environment. When harassment rises to the level of creating a hostile environment, Mount Union may also impose sanctions on the harasser through application of the Equity Resolution Process. Mount Union's harassment policy explicitly prohibits any form of harassment, defined as unwelcome conduct on the basis of actual or perceived membership in a protected class, by any member or group of the community.

The University reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature not on the basis of a protected status. Addressing such behaviors may not result in the imposition of conduct sanctions under University policy, but will be addressed through respectful confrontation, remedial actions, education, and/or effective conflict resolution mechanisms. For assistance with conflict resolution techniques, students should contact the director of student conduct.

3. ***Nonconsensual Sexual Intercourse*** (or attempts to commit the same):
 - Any sexual intercourse (anal, oral, or vaginal),
 - however slight,
 - with any object,
 - by a person upon another person,
 - without consent and/or by physical force.
4. ***Nonconsensual Sexual Contact*** (or attempts to commit the same):
 - Any intentional sexual touching,
 - however slight,
 - with any object,
 - by person upon another person,
 - without consent and/or by physical force.
5. ***Sexual Exploitation*** is taking nonconsensual or abusive sexual advantage of another for one's own advantage or benefit, or to benefit a person other than the one being exploited. Examples of sexual exploitation include, but are not limited to:
 - Prostituting another student;
 - Non-consensual video or audio recording of sexual activity;

- Exceeding the boundaries of explicit consent, such as allowing friends to hide in a closet to be witness to one's consensual sexual activity;
 - Engaging in voyeurism (Peeping Tommeary); and/or
 - Knowingly transmitting a sexually transmitted disease/infection or HIV to another student.
6. **Other Civil Right's Offenses:** In addition to the forms of sexual misconduct described above, the following behaviors are also prohibited as forms of discrimination when the act is based upon the reporting party's actual or perceived membership in a protected class.
- Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;
 - Discrimination, defined as actions that deprive, limit, or deny other members of the community of educational or employment access, benefits, or opportunities;
 - Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
 - Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the university community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the [Hazing Policy](#));
 - Bullying, defined as
 - Repeated and/or severe,
 - Aggressive behavior,
 - Likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally,
 - That is not speech or conduct otherwise protected by the 1st Amendment;
 - Intimate Partner Violence, defined as violence or abuse between those in an intimate relationship to each other;
 - Stalking
 - Repetitive and Menacing,
 - Pursuing, following, harassing and/or interfering with the peace and/or safety of another.
7. **Retaliation** is defined as any adverse action taken against a person participating in a protected activity because of their participation in that protected activity. Retaliation against an individual for alleging harassment, supporting a party bringing an allegation, or for assisting in providing information relevant to a claim of harassment is a serious violation of University policy and will be treated as a possible instance of harassment or discrimination. Acts of alleged retaliation should be reported immediately to the Title IX co-coordinator and will be promptly investigated. Mount

Union is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

Force and Consent

Force: Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that overcomes resistance or produces consent (“Have sex with me or I’ll hit you.” “Okay, don’t hit me, I’ll do what you want.”).

Coercion: Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

NOTE: Silence or the absence of resistance alone is not consent. There is no requirement on a party to resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of consent is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.

Consent: Consent is knowing, voluntary, and clear permission by word or action to engage in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Consent can be withdrawn once given, as long as the withdrawal is clearly communicated.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous dating relationship is not sufficient to constitute consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced.

Incapacitation: A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy.

It is not an excuse that the responding party was intoxicated and, therefore, did not realize the incapacity of the reporting party.

Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction). This policy also covers a person whose incapacity results from mental disability, involuntary physical restraint, and/or from the taking of incapacitating drugs.

In the State of Ohio, a minor (meaning a person under the age of 16 years) cannot consent to sexual activity. This means that sexual contact by an adult with a person younger than 16 years old may be a crime, and a potential violation of this policy, even if the minor wanted to engage in the act.

Remedial Action

Mount Union will implement initial remedial, responsive, and/or protective actions upon notice of alleged harassment, retaliation, and/or discrimination. Such actions could include but are not limited to: no contact orders, providing counseling and/or medical services, academic support, living arrangement adjustments, transportation accommodations, visa and immigration assistance, student financial aid counseling, providing a campus escort, academic or work schedule and assignment accommodations, safety planning, and referral to campus and community support resources.

Mount Union will take additional prompt remedial and/or conduct action with respect to any member of the community, guest, or visitor upon a finding that they have engaged in harassing or discriminatory behavior or retaliation.

The University will maintain as confidential any accommodations or protective measures, provided confidentiality does not impair the University’s ability to provide the accommodations or protective measures.

Procedures for handling reported incidents are fully described below.

Reporting Discrimination

Reports of discrimination, harassment, and/or retaliation may be made using any of the following options. There is no time limitation on the filing of allegations. However, if the responding party is no longer subject to the University’s jurisdiction, the ability to investigate, respond, and provide remedies may be more limited:

- 1) Report directly to the Title IX co-coordinator
Michelle Gaffney, associate dean of students & Title IX co-coordinator
Hoover Price Campus Center, Office of Student Affairs
Phone: (330) 823-2496
E-mail: gaffnemi@mountunion.edu;
- 2) Report online, using the reporting form posted at
<https://myhousing.mountunion.edu/mycoco/public/>; and/or

- 3) Report it to the Office of Campus Safety and Security at 405 W Simpson St at (330) 428-1344 or SAFE from any campus phone.

All reports are acted upon promptly while every effort is made by the University to preserve the privacy of reports. Such reports may also be anonymous. Anonymous reports will be investigated to determine if remedies can be provided. Additionally, all employees of the University, excluding counselors and the chaplain acting in the purview of their position and including student employees such as resident assistants and raider guides, are designated as mandated reporters and will share a report with the Title IX co-coordinator promptly. Confidentiality and mandated reporting is addressed more specifically [below](#). Reports of misconduct or discrimination committed by the Title IX co-coordinator should be reported to the University President, Dr. Merriman at merrimdr@mountunion.edu or (330) 823-6050.

Jurisdiction

This policy adheres to the [jurisdiction statement](#) in the Code of Student Conduct on page 46 in the Student Handbook.

Confidentiality and Reporting Sexual Misconduct

University officials, depending on their roles at the University, have varying reporting responsibilities and abilities to maintain confidentiality. In order to make informed choices, one should be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality, offering options and advice without any obligation to inform an outside agency or individual unless you have requested information to be shared. Other resources exist for you to report crimes and policy violations and these resources will take action when you report victimization to them. All non-student employees, with the exception of University counselors and the chaplain when acting as such, resident assistants, and raider guides are required reporters. Should you share information with any of these people, they are required to report this to a Title IX co-coordinator. Please note that AVI Food Services is an outside agency and its employees are not covered in these definitions. The following describes the reporting options at Mount Union:

1. **Confidential Reporting:** If you would like the details of an incident to be kept confidential, you may speak with on-campus counselors, campus health service providers, off-campus rape crisis resources, or the chaplain who will maintain confidentiality. Campus counselors are available to help you free of charge and can be seen on an emergency basis.
2. **Required Reporting:** Sharing information about a potential violation of the Civil Rights Equity Policy with any non-student university employee, including sexual misconduct responders, will result in their reporting the information to a Title IX coordinator. Additionally, any student employee with supervisory responsibility, such as a resident assistant or raider guide, is required to report this information to a Title IX coordinator as well.

3. **Formal Reporting Options:** You are encouraged to speak to university officials, such as the Title IX co-coordinator, director of student conduct, campus safety and security, or the vice president for student affairs/dean of students to make formal reports of incidents of sexual misconduct. You have the right, and can expect, to have incidents of sexual misconduct taken seriously by the University when formally reported, and to have those incidents investigated and properly resolved through administrative procedures. Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told. Information will be shared as necessary with investigators, witnesses, and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve your rights and privacy.

Federal Timely Warning Obligations

Victims of sexual misconduct should be aware that University administrators must issue timely warnings for incidents reported to them that pose a serious or ongoing threat of bodily harm or danger to members of the campus community. The University will ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger.

False Allegations

Deliberately false and/or malicious accusations under this policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate conduct action.

Amnesty for Reporting Party and Witnesses

The University community encourages the reporting of misconduct and crimes by reporting parties and witnesses. Sometimes, reporting parties or witnesses are hesitant to report to University officials or participate in resolution processes because they fear that they themselves may be accused of policy violations, such as underage drinking at the time of the incident. It is in the best interests of this community that reporting parties choose to report to university officials, and that witnesses come forward to share what they know. To encourage reporting, the University pursues a policy of offering reporting parties and witnesses amnesty from minor policy violations related to the incident. The full amnesty policy for students can be found [here](#).

Federal Statistical Reporting Obligations

Most campus officials – those deemed Campus Security Authorities - have a duty to report sexual assault, domestic violence, dating violence, and stalking for federal statistical reporting purposes (Clery Act). All personally identifiable information is kept confidential, but statistical information must be passed along to the director of student conduct regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) for publication in the Annual Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety. Mandated federal reporters include: all faculty and staff, with the exception

of university counselors and the chaplain acting in the purview of their position, and student staff with supervision responsibilities such as resident assistants and raider guides. AVI staff are not considered university staff and are exempt from this reporting requirement. The information to be shared includes the date, the location of the incident (using Clery location categories), and the Clery crime category. This reporting protects the identity of the victim and may be done anonymously.

Resolution Process for All Violations of the Civil Rights Equity Policy

The University of Mount Union will act on any formal or informal allegation or notice of violation of the Civil Rights Equity Policy, that is received by the Title IX co-coordinator or a member of the administration, faculty, or other employee.

The procedures described below apply to all allegations of harassment or discrimination on the basis of protected class. These procedures may also be used to address collateral misconduct occurring in conjunction with harassing or discriminatory conduct (e.g.: vandalism, physical abuse of another, etc.). All other allegations of misconduct unrelated to incidents covered by this policy will be addressed through the Code of Student Conduct [procedures](#) elaborated in the Student Handbook.

Overview

Upon notice to the Title IX co-coordinator, this resolution process involves a prompt preliminary inquiry to determine if there is reasonable cause to believe the nondiscrimination policy has been violated. If so, the University will initiate a confidential investigation that is thorough, reliable, impartial, prompt, and fair. The investigation and the subsequent resolution process determines whether the Civil Rights Equity Policy has been violated. If so, the University will promptly implement effective remedies designed to end the discrimination, prevent its recurrence and address its effects.

1. Equity Resolution Process (ERP)

Allegations of violations under the policy on nondiscrimination are resolved using the ERP. The ERP utilizes an ERP pool of trained faculty and staff members as investigators. Members of the ERP pool are trained in all aspects of the resolution process, and can serve in any of the following roles, at the direction of the Title IX co-coordinator:

- To provide sensitive intake for and initial advice pertaining to allegations
- To investigate allegations
- To act as process advisors to those involved in the Equity Resolution Process

ERP pool members also recommend proactive policies, and serve in an educative role for the community. ERP pool members receive annual training organized by the Title IX co-coordinator, including a review of University policies and procedures as well as applicable federal and state laws and regulations so that they are able to appropriately address allegations, provide accurate

information to members of the community, protect safety, and promote accountability. This training will include, but is not limited to: how to appropriately remedy, investigate, render findings, and determine appropriate sanctions in reference to all forms of harassment and discrimination allegations; the University's Civil Rights Equity Policy and Resolution Process (including Sexual Misconduct); confidentiality and privacy; and applicable laws, regulations and federal regulatory guidance. All ERP pool members are required to attend this annual training to be eligible to serve.

2. Reporting Misconduct

Any member of the community, guest, or visitor who believes that the Civil Rights Equity Policy has been violated should contact the Title IX co-coordinator. It is also possible for students to notify an administrator or faculty member. Any member of the community, including visitors, may contact Campus Safety and Security to make a report. These individuals will in turn notify the Title IX co-coordinator. A reporting form at <https://myhousing.mountunion.edu/mycoco/public/> may serve to initiate the resolution process.

All employees receiving reports of a potential violation of University policy are expected to promptly contact the Title IX co-coordinator, within 24 hours of becoming aware of a report or incident. All initial contacts will be treated with privacy: specific information on any allegations received by any party will be reported to the Title IX co-coordinator, but, subject to the University's obligation to redress violations, every effort will be made to maintain the privacy of those initiating an allegation. In all cases, University will give consideration to the reporting party with respect to how the reported misconduct is pursued, but reserves the right, when necessary to protect the community, to investigate and pursue a resolution even when a reporting party chooses not to initiate or participate in the resolution process.

3. Preliminary Inquiry

Following receipt of notice or a report of misconduct, the Title IX co-coordinator engages in a preliminary inquiry to determine if there is reasonable cause to believe the nondiscrimination policy has been violated. The preliminary inquiry is typically 1-3 days in duration. This inquiry may also serve to help the Title IX co-coordinator to determine if the allegations indicate violence, threat, pattern, predation, and/or weapon, in the event that the reporting party has asked for no action to be taken. In any case where violence, threat, pattern, predation, and/or weapon is not indicated, the Title IX co-coordinator may respect a reporting party's request for no action, and will investigate only so far as necessary to determine appropriate remedies. As necessary, the University reserves the right to initiate resolution proceedings without a formal report or participation by the reporting party.

In cases where the reporting party wishes to proceed or the University determines it must proceed, and the preliminary inquiry shows that reasonable cause exists, the Title IX co-coordinator will direct a formal investigation to commence and the allegation will be resolved through one of three processes discussed briefly here and in greater detail below:

- Conflict Resolution – typically used for less serious offenses and only when both parties agree to conflict resolution;
- Informal Resolution – a resolution without a hearing; or
- Formal Resolution – a resolution of contested allegations through a formal administrative hearing.

The process followed considers the preference of the parties, but is ultimately determined at the discretion of the Title IX co-coordinator. Conflict Resolution may only occur if selected by all parties. The parties can elect for Informal Resolution, but Informal Resolution may also apply if the responding party accepts responsibility for all alleged violations of policy. If either party or both parties select Formal Resolution, or the Title IX co-coordinator determines that Formal Resolution is appropriate, the allegation will be addressed using the Formal Resolution option.

If conflict resolution is desired by the reporting party, and appears appropriate given the nature of the alleged behavior, then the report does not proceed to investigation, unless a pattern of misconduct is suspected or there is an actual or perceived threat of further harm to the community or any of its members.

Once a formal investigation is commenced, the Title IX co-coordinator will provide written notification of the investigation to the parties at an appropriate time during the investigation. The University aims to complete all investigations within a sixty (60) calendar day time period, which can be extended as necessary for appropriate cause by the Title IX co-coordinator with notice to the parties as appropriate.

If, during the preliminary inquiry or at any point during the formal investigation, the Title IX co-coordinator determines that there is no reasonable cause to believe that policy has been violated, the process will end unless the reporting party requests that the Title IX co-coordinator makes an extraordinary determination to re-open the investigation or to forward the matter for a hearing. This decision is left to the sole discretion of the Title IX co-coordinator.

4. Interim Remedies/Actions

The Title IX co-coordinator may provide interim remedies intended to address the short-term effects of harassment, discrimination, and/or retaliation, i.e., to redress harm to the reporting party and the community and to prevent further violations.

These remedies may include, but are not limited to:

- Referral to counseling and/or health services
- Education to the community
- Altering the housing situation of the responding party (or the reporting party, if desired)
- Providing campus escorts
- Providing transportation accommodations
- Implementing contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.

The University may interim suspend a student or organization pending the completion of an ERP investigation and procedures, particularly when in the judgment of the Title IX co-coordinator the safety or well-being of any member(s) of the campus community may be jeopardized by the presence on-campus of the responding party or the ongoing activity of a student organization whose behavior is in question. In all cases in which an interim suspension is imposed, the student or student organization will be given the option to meet with the Title IX co-coordinator prior to such suspension being imposed, or as soon thereafter as reasonably possible, to show cause why the suspension should not be implemented. The Title IX co-coordinator has sole discretion to implement or stay an interim suspension and to determine its conditions and duration. Violation of an interim suspension under this policy will be grounds for expulsion or termination.

During an interim suspension or administrative leave, the student is banned from university property, functions, events, and activities without prior written approval from the director of student conduct or designee. . As determined by the Title IX co-coordinator, this restriction can include classes and/or all other University activities or privileges for which the student might otherwise be eligible. At the discretion of the Title IX co-coordinator, alternative coursework options may be pursued to ensure as minimal an impact as possible on the responding party.

The institution will maintain as confidential any interim actions or protective measures, provided confidentiality does not impair the institution's ability to provide the interim actions or protective measures.

5. Investigation

Once the decision is made to commence a formal investigation, the Title IX co-coordinator appoints ERP pool members to conduct the investigation (typically using a team of two ERP investigators), usually within two (2) days of determining that an investigation should proceed. Investigations are completed expeditiously, normally within ten (10) days, though some investigations take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

The University may undertake a short delay in its investigation (several days to weeks, to allow evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. The University will promptly resume its investigation and resolution processes once notified by law enforcement that the initial evidence collection process is complete. University action will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

All investigations will be thorough, reliable, impartial, prompt, and fair. Investigations entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, as necessary.

The investigators will typically take the following steps, if not already completed (not necessarily in order):

- In coordination with campus partners (e.g.: the Title IX co-coordinator), initiate or assist with any necessary remedial actions;
- Determine the identity and contact information of the reporting party;
- Identify all policies allegedly violated;
- Assist the Title IX co-coordinator with an immediate preliminary inquiry to determine if there is reasonable cause to believe the responding party has violated policy.
 - If there is insufficient evidence to support reasonable cause, the inquiry should be closed with no further action;
- Meet with the reporting party to finalize their statement;
- Prepare the notice of allegations on the basis of the preliminary inquiry;
- Commence a thorough, reliable, and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding party, who may be given notice prior to or at the time of the interview;
- If possible, provide written notification to the parties prior to their interviews that they may have the assistance of an ERP pool member or other advisor of their choosing present for all meetings attended by any of the parties;
- Provide the parties with a written description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures and a statement of the potential sanctions/responsive actions that could result;
- Prior to the conclusion of the investigation, provide the reporting party and the responding party with a list of witnesses whose information will be used to render a finding;
- Allow each party the opportunity to suggest questions they wish the investigators to ask of the other party and witnesses.
- Provide the parties with all relevant evidence to be used in rendering a determination and provide each with a full and fair opportunity to address that evidence prior to a finding being rendered;
- Complete the investigation promptly, and without unreasonable deviation from the intended timeline;
- Provide regular updates to the reporting party throughout the investigation, and to the responding party, as appropriate;
- Recommend a finding, based on a preponderance of the evidence (whether a policy violation is more likely than not);
- Investigators and/or the director of student conduct or designee finalize and present the findings to the responding party, who may accept the findings, accept the findings in part and reject them in part, or may reject all findings;
- Investigators and/or the director of student conduct or designee will share the findings and update the reporting party on the status of the investigation and responding party's decision on the finding, without undue delay.

At any point during the investigation, if it is determined there is no reasonable cause to believe that University policy has been violated, the Title IX co-coordinator has authority to terminate the investigation and end resolution proceedings.

Witnesses (as distinguished from the parties) are expected to cooperate with and participate in the University's investigation and the Equity Resolution Process. Any witness who declines to participate in or cooperate with an investigation will not be permitted to offer evidence or testimony later in a hearing (if a hearing is held). Witnesses may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone, Skype, or similar technology, if they cannot be interviewed in person or if the investigators determine that timeliness or efficiency dictate a need for remote interviewing. Parties who elect not to participate in the investigation or to withhold information from the investigation will not have the opportunity to offer evidence during the hearing and/or appeal stages of the process if it could have been offered during the investigation. Failure to offer evidence prior to an appeal does not constitute grounds for appeal on the basis of new evidence.

No unauthorized audio or video recording of any kind is permitted during investigation meetings or other Equity Resolution Process proceedings.

6. Advisors

Each party is allowed to have an advisor of their choice present with them for all ERP meetings and proceedings, from intake through to final determination. The parties may select whomever they wish to serve as their advisor as long as the advisor is eligible and available, and not otherwise involved in the resolution process, such as serving as a witness. The advisor may be a friend, mentor, family member, attorney, or any other supporter a party chooses to advise them who is available and eligible. Witnesses cannot also serve as advisors. The parties may choose advisors from inside or outside the campus community. The Title IX co-coordinator will also offer to assign a trained ERP pool member or trained process advisor to serve as an advisor for any party. The parties may choose their advisor from the ERP pool, choose a non-trained advisor from outside the pool, if preferred, or proceed without an advisor.

The parties may be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help their advisees prepare for each meeting, and are expected to advise ethically, with integrity, and in good faith. The University cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not, or cannot afford an attorney, the University is not obligated to provide one.

All advisors are subject to the same campus rules, whether they are attorneys or not. Advisors may not address campus officials in a meeting or interview unless invited to. The advisor may not make a presentation or represent the reporting party or the responding party during any meeting or proceeding and may not speak on behalf of the advisee to the investigators or hearing officer. The parties are expected to ask and respond to questions on their own behalf, without representation by their advisor. Advisors may confer quietly with their advisees or in writing as

necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private conversation. Advisors will typically be given an opportunity to meet in advance of any interview or meeting with the administrative officials conducting that interview or meeting. This pre-meeting will allow advisors to clarify any questions they may have and allows the University an opportunity to clarify the role the advisor is expected to take.

Advisors are expected to refrain from interference with the investigation and resolution. Any advisor who steps out of their role will be warned once and only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting. When an advisor is removed from a meeting, that meeting will typically continue without the advisor present. Subsequently, the Title IX co-coordinator will determine whether the advisor may be reinstated, may be replaced by a different advisor, or whether the party will forfeit the right to an advisor for the remainder of the process.

The University expects that the parties will wish to share documentation related to the allegations with their advisors. The University provides a consent form that authorizes such sharing. The parties must complete this form before the University is able to share records with an advisor, though parties may share the information directly with their advisor if they wish. Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the University. The University may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the University's privacy expectations.

The University expects an advisor to adjust their schedule to allow them to attend University meetings when scheduled. The University does not typically change scheduled meetings to accommodate an advisor's inability to attend. The University will, however, make reasonable provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video, and/or virtual meeting technologies as may be convenient and available.

A party may elect to change advisors during the process and is not locked into using the same advisor throughout.

The parties must advise the investigators of the identity of their advisor at least one (1) day before the date of their first meeting with investigators (or as soon as possible if a more expeditious meeting is necessary or desired). The parties must provide, in a timely manner, notice to investigators if they change advisors at any time.

7. Conflict Resolution and Informal Resolution

Proceedings are private. All persons present at any time during any meeting or hearing are expected to maintain the privacy of the proceedings in accord with University policy. While the contents of the hearing are private, the parties have discretion to share their own experiences if they so choose, and should discuss doing so with their advisors.

Conflict Resolution

Conflict Resolution is often used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the formal hearing process to resolve conflicts. The Title IX co-coordinator will determine if conflict resolution is appropriate, based on the willingness of the parties, the nature of the conduct at issue, and the susceptibility of the conduct to conflict resolution. In a conflict resolution meeting, a trained administrator will facilitate a dialogue with the parties to an effective resolution, if possible. Sanctions are not possible as the result of a conflict resolution process, though the parties may agree to appropriate remedies. The Title IX co-coordinator will keep records of any resolution that is reached, and failure to abide by the accord can result in appropriate responsive actions.

Conflict Resolution will not be the primary resolution mechanism used to address reports of violent behavior of any kind or in other cases of serious violations of policy, though it may be made available after the formal process is completed should the parties and the Title IX co-coordinator believe that it could be beneficial. Mediation will not be used in cases of sexual violence. It is not necessary to pursue conflict resolution first in order to pursue Informal or Formal Resolution, and either party participating in Conflict Resolution can stop that process at any time and request a shift to either Informal or Formal Resolution.

Informal Resolution: Resolution Without a Hearing

Informal Resolution can be pursued for any behavior that falls within the Civil Rights Equity Policy at any time during the process. This option may be used when:

- A responding party admits responsibility for all or part of the alleged policy violations at any point in the process;
- When the investigation reaches a finding that the parties accept;
- When both parties elect to resolve the allegation using the Informal Resolution process and the Title IX co-coordinator assents;

In Informal Resolution, the investigator has the authority to address all collateral misconduct, meaning that they hear all allegations of discrimination, harassment, and retaliation, but also may address any additional alleged policy violations that have occurred in concert with the discrimination, harassment, or retaliation, even though those collateral allegations may not specifically fall within the Civil Rights Equity Policy and Process. Accordingly, investigations should be conducted with as wide a scope as necessary.

Any evidence that the investigator believes is relevant and credible may be considered, including history and pattern evidence. The investigator may exclude irrelevant or immaterial evidence and may choose to disregard evidence lacking in credibility or that is improperly prejudicial.

Unless the investigator determines it is appropriate, the investigation and the finding will not consider: (1) incidents not directly related to the possible violation, unless they show a pattern, (2) the sexual history of the reporting party (though there may be a limited exception made in regards to the sexual history between the parties), (3) or the character of the reporting party. While previous conduct violations by the responding party are not generally admissible as

information about the present allegation, the investigators may consider information about previous good faith allegations and/or findings to consider as evidence of pattern and/or predatory conduct.

The investigator(s) will not meet with character witnesses, nor will they accept letters or other statements in regards to character.

The investigator(s) will base the determination(s) on the preponderance of the evidence, whether it is more likely than not that the responding party violated policy as alleged.

Typically, within ten (10) days of the close of an investigation which determines that a responding party is in violation of policy, the director of student conduct or designee will meet with the responding party to explain the finding(s) of the investigation. Once informed, the responding party may choose to admit responsibility for all or part of the alleged policy violations. If the responding party admits responsibility, in whole or in part, the director of student conduct or designee will render a determination that the individual is in violation of University policy for the admitted conduct, and will normally proceed to a formal hearing on any remaining disputed violations.

If the responding party admits to the violation(s), the director of student conduct or designee, in consultation as appropriate, will determine an appropriate sanction or responsive action. If the sanction/responsive action is accepted by both the reporting party and responding party, the director of student conduct or designee will implement the finding and sanction, and act promptly and effectively to stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct. No appeal is permitted.

If either party rejects the sanction/responsive action, a formal hearing will be held on the sanction/responsive action only, according to the Formal Resolution procedures below.

If alleged misconduct is resolved at this stage, the director of student conduct or designee will inform the parties of the final determination within three (3) days of the resolution, without significant time delay between notifications. Notification will be made in writing and may be delivered by one or more of the following methods: emailed to the parties' University-issued email account (primary); in person; or mailed to the local or permanent address of the parties as indicated in official University records. Once emailed, mailed, and/or received in-person, notice will be presumptively delivered. The notification of outcome will specify the finding on each alleged policy violation, any sanctions that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the University is permitted to share under state or federal law. The notice will also include information on when the results are considered by the University to be final, any changes that occur prior to finalization, and any appeal options that are available.

At any point during the Informal Resolution process, including at its conclusion, either party may request that the matter be referred to the Formal Resolution Process for presentation before an administrative hearing officer.

Formal Resolution: Resolution with a Hearing

For all contested allegations that are not resolved through either Conflict Resolution or Informal Resolution, the Title IX co-coordinator will initiate a formal administrative hearing within ten (10) days of the conclusion of the investigation, barring unusual circumstances.

Formal Hearing Procedures

Hearing Administrator

The Title IX co-coordinator will refer the investigation findings to an administrative hearing officer, generally the director of student conduct. The administrative hearing officer is responsible for convening the hearing and will determine the time of the hearing based on the academic schedules of the reporting and responding parties as appropriate.

Notice of Hearing

At least five (5) days prior to the hearing, or as far in advance as is reasonably possible if an accelerated hearing is scheduled with the consent of the parties, the administrative hearing officer will send a letter to the parties with the following information. Once emailed, mailed, and/or received in-person, notice will be presumptively delivered. The letter will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities. If any party does not appear at the scheduled hearing, the hearing will be held in their absence. For compelling reasons, the administrative hearing officer may reschedule the hearing. Notification that the parties may have the assistance of an ERP pool member or other advisor of their choosing at the hearing (See Section 6: "Advisors" above).

Hearings for possible violations that occur near or after the end of an academic term and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the University and remain within the sixty (60) day goal for resolution.

Hearing Procedures

Hearing panels will usually be convened within ten (10) days of the completion of the investigation and will be conducted in private. The director of student conduct or designee has the authority to hear all collateral misconduct, meaning that it hears all allegations of discrimination, harassment, and retaliation, but also may hear any additional alleged policy violations that have occurred in concert with the discrimination, harassment, or retaliation, even though those collateral allegations may not specifically fall within this policy's jurisdiction. Accordingly, investigations should be conducted with as wide a scope as necessary.

Participants will include the title IX co-coordinator, director of student conduct, the investigator(s) who conducted the investigation, the reporting party, responding party (or up to three (3) organizational representatives where an organization is charged), advisors to the parties and any called witnesses.

Pre-Hearing

The director of student conduct will exchange the names of witnesses who will be participating in the hearing, all pertinent documentary evidence and the investigation report with all parties at least two (2) days prior to the hearing. Any witness scheduled to participate in the hearing must have been interviewed first by investigators (or have proffered a written statement,) unless all parties consent to the participation of that witness in the hearing. In addition, the parties will be given a list of the name of the administrative hearing officer at least two (2) days in advance of the hearing. All objections to the administrative hearing officer must be raised in writing to the Title IX co-coordinator as soon as possible. Administrative hearing officers will only be unseated if the Title IX co-coordinator concludes that their bias precludes an impartial hearing of the allegation. When notified of the identity of the parties and all witnesses in advance of the hearing, the director of student conduct or designee who cannot make an objective determination must recuse themselves from the proceedings.

The director of student conduct, in consultation with the parties and investigators, may decide in advance of the hearing that certain witnesses do not need to be physically present if their testimony can be adequately summarized by the investigator(s) in the investigation report or during the hearing. All parties will have ample opportunity to present facts and arguments in full and question all present witnesses during the hearing, though formal cross-examination is not used between the parties. If alternative attendance or questioning mechanisms are desired, such as the reporting party not wanting to be in the same room as the responding party for the hearing (screens, Skype, questions directed through the director of student conduct, etc.), the parties should request them from the director of student conduct at least two (2) days prior to the hearing. In the case of documented disabilities, Mount Union will make reasonable accommodations for the parties when requested in advance.

Investigator Presents the Report

Once the procedures are explained and the participants are introduced, the investigator will present the report of the investigation first and be subject to questioning by the parties and the administrative hearing officer. The investigator(s) will be present during the entire hearing process but will only be present during deliberations at the request of the administrative hearing officer. The findings of the investigation are not binding on the administrative hearing officer, though any undisputed conclusions of the investigation report will not be revisited, except as necessary to determine sanctions/responsive actions. Once the investigator(s) present their report and are questioned, the administrative hearing officer will permit the parties to provide relevant information in turn and permit questioning of and by the administrative hearing officer. The administrative hearing officer will then permit all present witnesses to provide relevant information and the administrative hearing officer and the parties will each be allowed to ask

questions of the witnesses. Questions are usually directed to the parties and witnesses through the administrative hearing officer at the discretion of the administrative hearing officer.

Evidence Presented at the Hearing

Formal rules of evidence do not apply. Any evidence that the administrative hearing officer believes is relevant and credible may be considered, including history and pattern evidence. The administrative hearing officer will address any evidentiary concerns prior to and/or during the hearing, may exclude irrelevant or immaterial evidence, and may ask the panel to disregard evidence lacking in credibility or that is improperly prejudicial. The administrative hearing officer will determine all questions of procedure and evidence. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

Unless the administrative hearing officer determines it is appropriate, no one will present information or raise questions concerning: (1) incidents not directly related to the possible violation, unless they show a pattern, (2) the sexual history of the reporting party (though there may be a limited exception made in regards to the sexual history between the parties), (3) or the character of the reporting party. While previous conduct violations by the responding party are not generally admissible as information about the present allegation, the investigators will supply the administrative hearing officer with information about previous good faith allegations and/or findings to consider as evidence of pattern and/or predatory conduct.

There will be no observers in the hearing. The administrative hearing officer may allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the administrative hearing officer or the parties involved, and then be excused. The administrative hearing officer does not hear from character witnesses.

In hearings involving more than one responding party or in which two (2) or more reporting parties have accused the same individual of substantially similar conduct, the standard procedure will be to hear the allegations jointly; however, the Title IX co-coordinator may permit the hearing pertinent to each responding party to be conducted separately. In joint hearings, separate determinations of responsibility will be made for each responding party.

Proceedings are private. All persons present at any time during the hearing are expected to maintain the privacy of the proceedings in accord with University policy. While the contents of the hearing are private, the parties have discretion to share their own experiences if they so choose, and should discuss doing so with their advisors.

Hearings (except for deliberations) are recorded for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted. The administrative hearing officer, the parties, and appropriate administrative officers of the University will be allowed to listen to the recording in a location determined by the Title IX co-coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX co-coordinator.

Alternative Testimony Options

For sexual misconduct reports, and other reports of a sensitive nature, the reporting party will be offered alternative testimony options, such as placing a privacy screen in the hearing room or testifying outside the physical presence of the responding party, such as by Skype or phone. While these options are intended to help make the reporting party more comfortable, they are not intended to work to the disadvantage of the responding party.

Deliberation and Decisions

The administrative hearing officer will deliberate in closed session to determine whether the responding party is responsible or not responsible for the policy violation(s) in question. The administrative hearing officer will base its determination(s) on a preponderance of the evidence (i.e., whether it is more likely than not that the responding party committed each alleged violation). If a responding party or organization is found responsible by the administrative hearing officer, the administrative hearing officer will recommend appropriate sanctions.

The administrative hearing officer will prepare a written deliberation report and deliver it to the Title IX co-coordinator, detailing the recommended finding, the information cited by the administrative hearing officer in support of its recommendation and any information the administrative hearing officer excluded from consideration and why. The report should conclude with any sanctions. This report should not exceed two (2) pages in length and must be submitted to the Title IX co-coordinator within two (2) days of the end of deliberations, unless the Title IX co-coordinator grants an extension.

The director of student conduct or designee will inform the parties of the final determination – both the finding(s) and applicable sanction(s) within three (3) days of the hearing, without significant time delay between notifications. Notification will be made in writing and may be delivered by one or more of the following methods: emailed to the parties' University-issued email account; in person; or mailed to the local or permanent address of the parties as indicated in official University records. Once emailed, mailed, and/or received in-person, notice will be presumptively delivered. The notification of outcome will specify the finding on each alleged policy violation, any sanctions that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the University is permitted to share under state or federal law. The notice will also include information on when the results are considered by the University to be final, any changes that occur prior to finalization and any appeal options that are available.

Sanctions

The administrative hearing officer assigned to the resolution will determine the sanctions or responsive actions. Factors considered when determining a sanction/responsive action may include:

- The nature, severity of, and circumstances surrounding the violation;
- An individual's conduct history;
- Previous allegations or allegations involving similar conduct;
- Any other information deemed relevant by the hearing officer;

- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation;
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation;
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the reporting party and the community.

Student Sanctions

The following are the usual sanctions that may be imposed upon students or organizations singly or in combination:

- **Warning:** An official written notice that the student has violated the Code of Student Conduct, that such behavior is unacceptable, and that more severe conduct action will result should the student be involved in other violations while the student is enrolled at the University.
- **Restitution:** Compensation for damage caused to the University or any person's property. This could also include situations such as failure to return a reserved space to proper condition – labor costs and expenses. This is not a fine but, rather, a repayment for labor costs and/or the value of property destroyed, damaged, consumed, or stolen. This may take the form of appropriate service and/or monetary replacement.
- **Fines:** Reasonable fines may be imposed.
- **Community Service Requirements:** For a student or organization to complete a specific supervised university and/or community service.
- **Loss of Privileges:** The student will be denied specified privileges for a designated period of time.
- **Confiscation of Prohibited Property:** Items whose presence is in violation of University policy will be confiscated and will generally become the property of the University. Prohibited items may be returned to the owner at the discretion of the appropriate university administrator or designee. For more information see the [Confiscation Policy](#) on page 140 of the Student Handbook.
- **Educational Sanctions:** This includes required activities including, but not limited to, seeking counseling or substance abuse screening, writing a letter of apology, etc.
- **Educational Program:** Requirement to attend, present, and/or participate in a program related to the violation. It may also be a requirement to sponsor or assist with a program for others on campus to aid them in learning about a specific topic or issue related to the violation for which the student or organization was found responsible. Audience may be restricted.
- **Restriction of Visitation Privileges:** May be imposed on a resident or non-resident student. The parameters of the restriction will be specified.
- **Housing Probation:** Official notice that, should further violations of Residence Life or University policies occur during a specified probationary period, the student may immediately be removed from University housing. Regular probationary meetings may also be imposed.
- **Housing Reassignment:** Reassignment to another University housing facility. Residential Life personnel will decide on the reassignment details in collaboration with the director

of student conduct or designee. When a student is reassigned within University housing, they are banned from the building or hall they were reassigned from for the rest of the academic year unless otherwise noted in their decision letter.

- **Housing Suspension:** Removal from University housing for a specified period of time after which the student is eligible to return. Conditions for re-admission to University housing may be specified. Under this sanction, a student is required to vacate University housing within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the director of residence life. This sanction may be enforced with a trespass action if deemed necessary. Prior to reapplication for University housing, the student must gain permission from the director of residence life or designee. When a student is suspended from University housing, they are banned from all housing facilities until they have received permission to return to University housing.
- **Housing Expulsion:** The student's privilege to live in, or visit, any University housing structure is revoked indefinitely. This sanction may be enforced with a trespass action if deemed necessary.
- **University Probation:** The student is put on official notice that, should further violations of University policies occur during a specified probationary period, the student may face more severe sanctions, including suspension or expulsion. Regular probationary meetings may also be imposed. A student on University probation is deemed "not in good standing" with the institution.
- **Suspension:** Separation from the University for a specified minimum period of time, after which the student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted at the time of suspension. The student is required to vacate the campus within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the director of student conduct or designee. During the suspension period, the student is banned from university property, functions, events and activities without prior written approval from the director of student conduct or designee. This sanction may be enforced with a trespass action as necessary.
- **Expulsion:** Permanent separation from the University. The student is banned from university property and the student's presence at any University-sponsored activity or event is prohibited. This action may be enforced with a trespass action as necessary.
- **Other Sanctions:** Additional or alternate sanctions may be created and designed as deemed appropriate to the offense with the approval of the director of student conduct or designee.

The following sanctions may be imposed upon groups or organizations found to have violated the Civil Rights Equity Policy:

- One or more of the sanctions listed above; and/or
- Deactivation, loss of recognition, and/or loss of all privileges (including status as a University registered group/organization), for a specified period of time.

Withdrawal or Resignation While Charges Pending

The University does not permit a student to withdraw if that student has an allegation pending for violation of the Civil Rights Equity Policy. Should a student decide to leave and/or not

participate in the ERP, the process will nonetheless proceed in the student's absence to a reasonable resolution and that student will not be permitted to return to Mount Union unless all sanctions have been satisfied. The student will not have access to an academic transcript until the allegations have been resolved.

Appeals

Both the reporting and responding party may request an appeal of the decision of the administrative hearing officer by filing a written request to the director of student conduct or designee subject to the procedures outlined below. All sanctions imposed by the original hearing body remain in effect, and both the reporting and responding party should be informed in a timely manner of the status of requests for appeal, the status of the appeal consideration, and the results of the appeal decision. Any party may appeal, but appeals are limited to the following grounds:

- A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.).
- To consider new evidence, unknown or unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence, why it was not available at the time of the original hearing, and its potential impact must be included.
- The sanctions imposed are excessive and/or fall outside the range of sanctions the University has designated for this offense and the cumulative record of the responding party.

Appeals must be filed from the student's Mount Union email with the director of student conduct or designee (via studentconduct@mountunion.edu) on the appeal form (obtained on the Student Conduct website or from the director of student conduct) within three (3) business days of the notice of the outcome to the hearing, barring exigent circumstances. Any exceptions are made at the discretion of the Title IX co-coordinator.

The Appeal Panel will be made up of the vice president for student affairs/dean of students, a student member of the student conduct board, and a faculty member of the student conduct board. This Panel will be appointed by the Title IX co-coordinator. In situations where it is not possible for a panel to be convened, such as when class is not in session, appeals will be heard by the vice president for student affairs/dean of students.

The Appeal Panel will review the appeal request(s). The original finding and sanction/responsive actions will stand if the appeal is not timely or is not based on the grounds listed above, and such a decision is final. The party requesting appeal must show that the grounds for an appeal request have been met, and the other party or parties may show the grounds have not been met, or that additional grounds are met. The original finding and sanction are presumed to have been decided reasonably and appropriately. When any party requests an appeal, the Title IX co-coordinator will share the appeal request with the other party(ies), who may file a response within three (3) days and/or bring their own appeal on separate grounds within the original timeframe. If new grounds are raised, the original appealing party will be permitted to submit a written response to these new grounds within three (3) days. Any response or appeal request will be shared with each party.

Where the Appeal Panel finds that at least one of the grounds is met by at least one party, additional principles governing the hearing of appeals will include the following:

- Decisions by the Appeal Panel are to be deferential to the original decision, making changes to the finding only where there is clear error and to the sanction/responsive action only if there is a compelling justification to do so.
- Appeals are not intended to be full re-hearings (de novo) of the allegation. In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal. An appeal is not an opportunity for appeal panelists to substitute their judgment for that of the original hearing panel merely because they disagree with its finding and/or sanctions.
- Appeals granted based on new evidence should normally be remanded to the original administrative hearing officer or investigators for reconsideration. Other appeals may be remanded at the discretion of the Title IX co-coordinator or, in limited circumstances, heard by the three-member Appeal Panel.
- Sanctions imposed as the result of the Formal or Informal Resolution processes are implemented immediately unless the Title IX co-coordinator or designee stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
 - For students: Graduation, study abroad, internships/ externships, etc. do NOT in and of themselves constitute exigent circumstances, and students may not be able to participate in those activities during their appeal.
- The Title IX co-coordinator will confer with the Appeal Panel, incorporate the results of any remanded grounds, and render a written decision on the appeal to all parties within three (3) days from hearing of the appeal or remand.
- All parties should be informed of whether the grounds for an appeal are accepted and the results of the appeal decision or remand.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).
- All parties will be informed in writing within three (3) days of the outcome of the Appeal Panel, without significant time delay between notifications, and in accordance with the standards for notice of outcome as defined above.
- In rare cases where a procedural or substantive error cannot be cured by the original administrative hearing officer (as in cases of bias), the Appeal Panel may recommend a new hearing with a new administrative hearing officer. The results of a remand to an administrative hearing officer cannot be appealed. The results of a new hearing can be appealed, once, on any of the three applicable grounds for appeals.
- In cases where the appeal results in reinstatement to the University or resumption of privileges, all reasonable attempts will be made to restore the responding party to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

Long-Term Remedies/Actions

Following the conclusion of the Equity Resolution Process and in addition to any sanctions implemented, the Title IX co-coordinator may utilize long-term remedies or actions to stop the

harassment or discrimination, remedy its effects and prevent their reoccurrence. These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Education to the community
- Permanently altering the housing situation of the responding party (or the reporting party, if desired)
- Providing campus escorts
- Climate surveys
- Policy modification
- Providing transportation accommodations
- Implementing long-term contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX co-coordinator, long-term remedies may also be provided even when the responding party is found not responsible.

The institution will maintain as confidential any long-term remedies/actions or protective measures, provided confidentiality does not impair the institution's ability to provide the actions or protective measures.

Failure to Complete Sanctions/Comply with Interim and Long-term Remedies/Responsive Actions

All responding parties are expected to comply with conduct sanctions, responsive actions and corrective actions within the timeframe specified. Failure to abide by these conduct sanctions, responsive actions and corrective actions by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanctions/responsive/corrective actions and/or suspension, expulsion and/or termination from the University. Sanction completion will be determined by the director of student conduct. A suspension will only be lifted when compliance is achieved to the satisfaction of the director of student conduct.

Records

In implementing this policy, records of all allegations, investigations, resolutions, and hearings will be kept by the director of student conduct indefinitely in the student conduct database.

Statement of the Rights of the Parties

Statement of the Reporting Party's rights:

- The right to investigation and appropriate resolution of all credible allegations of sexual misconduct or discrimination made in good faith to University officials;
- The right to be informed in advance of any public release of information regarding the incident;
- The right not to have any personally identifiable information released to the public, without their consent;
- The right to be treated with respect by University officials;
- The right to have University policies and procedures followed without material deviation;

- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence;
- The right not to be discouraged by University officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities;
- The right to be informed by University officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the reporting party so chooses. This also includes the right not to be pressured to report, however, State Law requires university officials to notify the police if they have knowledge of a felony;
- The right to have reports of sexual misconduct responded to promptly and with sensitivity by campus safety and security and other campus officials;
- The right to be notified of available counseling, mental health, victim advocacy, health, legal assistance, student financial aid, visa and immigration assistance, or other student services, both on campus and in the community;
- The right to a campus no contact order (or a trespass order through the local authorities against a student or a non-affiliated third party) when someone has engaged in or threatens to engage in stalking, threatening, harassing, or other improper behavior that presents a danger to the welfare of the reporting party or others;
- The right to notification of and options for, and available assistance in, changing academic and living situations after an alleged sexual misconduct incident, if so requested by the reporting party and if such changes are reasonably available (no formal report, or investigation, campus or criminal, need occur before this option is available). Accommodations may include:
 - Change of an on-campus student's housing to a different on-campus location;
 - Assistance from University support staff in completing the relocation;
 - Transportation accommodations;
 - Arranging to dissolve a housing contract and pro-rating a refund;
 - Exam (paper, assignment) rescheduling;
 - Taking an incomplete in a class;
 - Transferring class sections;
 - Temporary withdrawal;
 - Alternative course completion options;
- The right to have the University maintain such accommodations for as long as is necessary, and for protective measures to remain confidential, provided confidentiality does not impair the institution's ability to provide the accommodations or protective measures;
- The right to be fully informed of campus policies and procedures as well as the nature and extent of all alleged violations contained within the report;
- The right to ask the investigators to identify and question relevant witnesses, including expert witnesses provided by the reporting party;
- The right to review all documentary evidence available regarding the report, subject to the privacy limitations imposed by state and federal law, at least 48 hours prior to the hearing;
- The right to be informed of the names of all witnesses who will be called to give testimony, at least two (2) days prior to the hearing, except in cases where a witness's identity will not

be revealed to the responding party for compelling safety reasons (this does not include the name of the reporting party, which will always be revealed);

- The right not to have irrelevant prior sexual history admitted as evidence;
- The right to regular updates on the status of the investigation and/or resolution;
- The right to have reports heard by administrative hearing officers who have received at least eight hours of annual sexual misconduct training;
- The right to preservation of privacy, to the extent possible and permitted by law;
- The right to meetings, interviews, and/or hearings that are closed to the public;
- The right to petition that any University representative in the process be recused on the basis of demonstrated bias and/or conflict of interest;
- The right to bring a victim advocate or advisor of the reporting party's choosing to all phases of the investigation and resolution proceeding;
- The right to provide evidence by means other than being in the same room with the responding party;
- The right to be present for all testimony given and evidence presented during any resolution-related hearing;
- The right to submit an impact statement, in person or in writing, to the administrative hearing officer following determination of responsibility, but prior to sanctioning;
- The right to be promptly informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties;
- The right to be informed in writing of when a decision by the University is considered final, any changes to the sanction to occur before the decision is finalized, to be informed of the right to appeal the finding and sanction of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the University.

Statement of the Responding Party's rights:

- The right to investigation and appropriate resolution of all credible reports of sexual misconduct and/or discrimination made in good faith to University administrators;
- The right to be informed in advance, when possible, of any public release of information regarding the report;
- The right to be treated with respect by University officials;
- The right to have University policies and procedures followed without material deviation;
- The right to be informed of, and have access to, campus resources for medical, health, counseling, and advisory services;
- The right to timely written notice of all alleged violations, including the nature of the violation(s), the applicable policies, procedures, and possible sanctions;
- The right to a hearing on the report, including timely notice of the hearing date, and adequate time for preparation;
- The right to review all documentary evidence available regarding the report, subject to the privacy limitations imposed by state and federal law, at least two (2) days prior to the hearing;
- The right to be informed of the names of all witnesses who will be called to give testimony, at least two (2) days prior to the hearing, except in cases where a witness's identity will not

be revealed to the responding party for compelling safety reasons (this does not include the name of the reporting party, which will always be revealed);

- The right not to have irrelevant prior sexual history admitted as evidence in a campus resolution process;
- The right to have reports heard by administrative hearing officers who have received at least 8 hours of annual training;
- The right to petition that any University representative be recused from the resolution process on the basis of demonstrated bias and/or conflict of interest;
- The right to a panel that is not single-sex in its composition, if a panel is used;
- The right to meetings, interviews, and hearings that are closed to the public;
- The right to have an advisor of their choice to accompany and assist in the campus resolution process;
- The right to a fundamentally fair resolution, as defined in these procedures;
- The right to submit an impact statement, in person or in writing, to the administrative hearing officer following any determination of responsibility, but prior to sanctioning;
- The right to a decision based solely on evidence presented during the resolution process. Such evidence shall be credible, relevant, based in fact, and without prejudice;
- The right to be promptly informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties;
- The right to be informed in writing of when a decision of the University is considered final, any changes to the sanction to occur before the decision is finalized, to be informed of the right to appeal the finding and/or the sanction of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the University.

Disabilities Accommodation in the Equity Resolution Process

Mount Union is committed to providing qualified students with disabilities with reasonable accommodations and support needed to ensure equal access to the Equity Resolution Process at the University. Anyone needing such accommodations or support should contact the director of accessibility services, who will review the request and, in consultation with the person requesting the accommodation, and the Title IX co-coordinator, determine which accommodations are appropriate and necessary for full participation.

Revision

These policies and procedures will be reviewed and updated annually by the Title IX co-coordinator or designee. The University reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect. The Title IX co-coordinator may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules, etc. The Title IX co-coordinator may also vary procedures materially with notice (on the institutional web site, with appropriate date of effect identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure. Procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when the incident occurred. Policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution, unless the parties consent to be bound by the current policy. If government

regulations change in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form.

This document does not create legally enforceable protections beyond the protection of state and federal laws which frame such codes generally.

This policy and procedure was implemented on August 21, 2017.

Creation, Retention, and Storage of Records Related to Alleged Violations of the Civil Rights Equity Policy

Policy Scope

This policy covers records maintained in any medium that are created pursuant to the College's Civil Rights Equity Policy and/or the regular business of the University's Title IX co-coordinators. All such records are considered private by the Office of Student Affairs, in accordance with FERPA and the directive from the Department of Education to maintain the confidentiality of records related to Title IX. These records may be shared internally with those who have a legitimate educational or administrative need-to-know, and will be shared with the parties to an investigation under the Civil Rights Equity Policy per the terms of this policy, applicable state and/or federal law, including FERPA, and/or Clery/VAWA §304. The Office of Student Affairs controls the dissemination and sharing of any records under its control.

Types of Records Covered Under this Policy

Records Pertaining to the Grievance-Resolution Process. These records include, but are not limited to:

- Documentation of notice to the institution including incident reports;
- Anonymous reports;
- Any documentation supporting the preliminary inquiry;
- Investigation-related evidence (e.g., physical and documentary evidence collected and interview transcripts);
- Documentation related to the grievance-resolution process;
- The final investigative report (including findings and the basis for those findings);
- Remedy-related documentation;
- Resource and accommodation-related documentation;
- Appeal-related documentation;
- Any other records typically maintained by the University as the investigation file.

Specific examples of records pertaining to the resolution process include, but are not limited to: anonymous reports; intake documentation; incident reports; the written grievance; the names of the reporting party (if available), the responding party, any witnesses; any relevant statements or other evidence obtained; interview notes or transcripts; timelines, flowcharts and other forms used in the investigation process; witness lists, correspondence, telephone logs, evidence logs and other documents related to the processing of an investigation; correspondence relating to the substance of the investigation; actions taken on behalf of the reporting party; actions taken

to restrict the responding party; any interim measures taken for the parties; correspondence with the parties; medical, mental health, and forensic record evidence obtained during the course of the investigation; police reports; expert sources used in consideration of the evidence; documentation of outcome and rationale; correspondence and documentation of the appeal process; documentation of any sanctions resulting from the resolution process; and documentation of any reported retaliatory behavior, as well as all action taken to address these reports.

Drafts and Working Files

Drafts and “working files” are not considered records that must be maintained by the University, and these are typically destroyed during the course of an investigation or at its conclusion. They are preliminary versions of records and other documents that do not state a final position on the subject matter reviewed or are not considered to be in final form by their creator and/or the Title IX co-coordinator. An example is a draft of a preliminary investigative report submitted to the Title IX co-coordinator for review prior to finalization. An example of a “working file” would be the investigator notes made during one interview with topics the investigator wants to revisit in subsequent interviews. Sole possession records maintained as such in accordance with FERPA are also included in this category.

Attorney Work-Product

Communications from the Office of Student Affairs or its designees with the University’s legal counsel may be work product protected by attorney-client confidentiality. These communications are not considered records to be maintained by the Office of Student Conduct unless the Title IX co-coordinator, in consultation with legal counsel as necessary, determines that these communications should be included as records.

Record Storage

Records may be created and maintained in different media formats; this policy applies to all records, irrespective of format. All records created pursuant to the Civil Rights Equity Policy, as defined above, must be stored in the conduct database. The complete file must be transferred to the Title IX co-coordinator within fourteen (14) days of resolution of the grievance (including any appeal), if the file is not maintained within the student conduct database already. Security protocols must be in place to preserve the integrity and privacy of any parts of any record that is maintained in an investigator’s office during the pendency of an investigation.

The Title IX co-coordinator will store all records created pursuant to the Civil Rights Equity Policy, regardless of the identities of the parties.

Any extra copies of the records (both digital and paper) must be destroyed.

A copy of records showing compliance with Clery Act requirements by Title IX personnel will be maintained along with the case file in the student conduct database and in a separate aggregate annual Clery Act composite file, as well.

Record Retention

All records created and maintained pursuant to the Sexual Misconduct Policy must be retained indefinitely by the Title IX Office (in database, digital, and/ or paper form) unless destruction or expungement is authorized by the Title IX Coordinator, who may act under their own discretion, or in accordance with a duly executed and binding settlement of claim, and/or by court order.

Record Access

Access to records created pursuant to the Civil Rights Equity Policy or housed in the student conduct database is strictly limited to the Title IX coordinators and any individual the coordinators authorize in writing, at their discretion or via permission levels within the database. Those who are granted broad access to the records of the Title IX coordinators are expected to only access records pertinent to their scope or work or specific assignment. Anyone who accesses such records without proper authorization may be subject to an investigation and possible discipline/sanction. The discipline/sanction for unauthorized access of records covered by this policy will be at the discretion of the appropriate disciplinary authority, consistent with other relevant college policies and procedures.

Record Security:

The Title IX coordinators are expected to maintain appropriate security practices for all records, including password protection, lock and key, and other barriers to access as appropriate. Record security should include protection from flood, fire, and other potential emergencies. Clothing, forensic, and other physical evidence should be stored with campus safety and security. All physical evidence will be maintained in a facility that is reasonably protected from flood and fire. A catalogue of all physical evidence will be retained with the case file.

Information Supplementing the University Civil Rights Equity Policy

In addition to the information provided in the University Civil Rights Equity Policy, students should know that rape is a crime that can be reported to civil authorities. Rape is often thought of as a violent attack on a woman by a stranger who uses a weapon to threaten his victim, but this description does not apply to the majority of rapes that take place in the United States. "Victims of rape and sexual assault report that in nearly 3 out of 4 incidents, the offender was not a stranger...two thirds of the victims 18 to 29 years old had a prior relationship with the rapist" (2016,THE NCHERM GROUP, LLC/ATIXA). Therefore, University students are more likely to be victimized by someone they know, and perhaps trust, than by someone who is a stranger. People of any gender can be victims. Non-consensual intercourse by a person one knows is often referred to as date rape or acquaintance rape, both of which are as serious an offense as stranger rape.

Resources for Victims of Sexual Harassment and Assault

University Campus Resources

- Campus Safety and Security
Open 24 hours at 405 W Simpson St.
Contact them at (330) 428-1344 (or by dialing "SAFE" from any campus phone)

- **Counseling Services**
Located in the Professional Building at the Alliance Community Hospital.
Contact them during normal business hours at (330) 823-2886. A Counselor on Duty can be reached by Campus Safety and Security at any time.
- **Student Health Services**
Located in the Professional Building at the Alliance Community Hospital.
Contact them during normal business hours at (330) 596-7995.
- **Director of student conduct**
Located in the Student Affairs Office in HPPC.
Contact them during normal business hours at (330) 823-7288.
- **University Title IX co-coordinator**
Located in the Student Affairs Office in HPPC.
Contact them during normal business hours at (330) 823-2496.

Community Resources

- Alliance Area Rape Crisis Hotline - (330) 821-RAPE (7273)
- Alliance Area Domestic Violence Shelter (24-Hour Hotline) – (330) 823-7223
- COMPASS Rape Crisis Services of Stark County (24-Hour Hotline) – (330) 452-1111
- Comquest Services of Stark County – 1207 W. State Street, Suite M, Alliance – (330) 821-7478
- Domestic Violence Project (24-Hour Hotline) - (330) 453-SAFE (7233)

Frequently Asked Questions

The following are some of the most commonly asked questions regarding the University's Civil Rights Equity Policy and procedures.

Does a complaint remain confidential?

Reports made to counselors, health service providers, and clergy will be kept confidential. All other reports are considered private. The privacy of all parties to a complaint of sexual misconduct will be maintained, except insofar as it interferes with the University's obligation to fully investigate allegations of sexual misconduct. Where information is shared, it will still be tightly controlled on a need-to-know basis. Dissemination of information and/or written materials to persons not involved in the complaint procedure is not permitted.

In all complaints of sexual misconduct, the reporting party will be informed of the outcome. In some instances, the administration also may choose to make a brief announcement of the nature of the violation and the action taken, to the community, though personally identifying information about the reporting party will not be shared. Certain University administrators are informed privately (e.g., the president of the University, director of student conduct, Title IX coordinator, director of campus safety and security, etc.) of the outcome and any change to a student's status, as necessary. The

University must statistically report the occurrence on campus of any of seven major violent crimes, including certain sex offenses, and hate crimes in an annual report of campus crime statistics. This statistical report does not include personally identifiable information.

Will my parents/guardians be told?

No, not unless you tell them. Whether you are the reporting party or the responding party, the University's primary relationship is to the student and not to the parent/guardian. However, in the event of major medical, conduct action, or academic jeopardy, students are strongly encouraged to inform their parents. University officials may directly inform parents when requested to do so by a student, or in a life-threatening situation, in the case that the student is a minor, or if the student has signed a FERPA Waiver which allows such communication.

Will I have to confront the alleged perpetrator?

Yes, if you file a formal complaint, but not directly. Sexual misconduct is a serious offense and the responding party has the right to question the reporting party; however, the University does provide options for allowing questioning without direct contact, including conference phones, Skype, using a room divider or using separate hearing rooms.

Do I have to name the alleged perpetrator?

Yes, if you want formal conduct action to be taken against the alleged perpetrator. No, if you do not feel comfortable sharing further information. One should consult the complete privacy policy described above to better understand the University's legal obligations regarding information that is shared with various University officials.

What should I do if I am accused of sexual misconduct?

First, do not contact the responding party. You may immediately want to contact someone who can act as your advisor; anyone may serve as your advisor. You may also contact the director of student conduct, who can explain the University's procedures for dealing with sexual misconduct complaints. You may also want to talk to a confidential counselor in Counseling Services.

What should I do about legal advice?

Victims of criminal sexual assault need not retain a private attorney to seek prosecution because legal issues will be handled through a representative from the District Attorney's office. You may want to retain an attorney if you are the responding party. Victims may also want to retain an attorney if you are considering civil action against the alleged perpetrator. Both the reporting and responding party can use an attorney as their advisor during the campus' investigative and hearing processes.

How can the University help to remedy the effects of discrimination?

If you want to move, or have the responding party moved, you may request a room change. Room changes under these circumstances are considered emergencies. It is the University's policy that in emergency room changes, the student is moved to the first available, suitable room. Other accommodations available to you might include:

1. Assistance from University support staff in completing the relocation;
2. Arranging to dissolve a housing contract and pro-rating a refund;
3. Exam, paper, or assignment rescheduling;
4. Taking an incomplete in a class;
5. Transferring class sections;
6. Temporary withdrawal; and/or
7. Alternative course completion options;
8. A no-contact order;
9. Assistance in obtaining or enforcing a court ordered restriction;
10. Counseling assistance;
11. Escorts or other campus safety protections.

What should I do to preserve evidence of a sexual assault?

Physical information of a sexual assault must be collected within about 120 hours of the assault for it to be useful in a criminal prosecution. If you believe you have been a victim of a sexual assault, you should go to a hospital Emergency Room before washing yourself or your clothing. A sexual assault nurse examiner (SANE) is on call at either Aultman Hospital or Mercy Medical Center in Canton and will counsel you. If you go to the hospital, local police will be called but you are not obligated to talk to the police or to prosecute. The exam will help to keep that option open for you should you decide later to exercise it.

The hospital staff will collect information, check for injuries, and address the possibility of exposure to sexually transmitted infections. If you have changed clothing since the assault, bring the clothing you had on at the time of the assault with you to the hospital in a clean, sanitary container such as a clean paper grocery bag or wrapped in a clean sheet. (Plastic containers do not breathe and may render forensic information useless.) If you have not changed clothes, bring a change of clothes with you to the hospital, if possible, as they will likely keep the clothes you are wearing as evidence. You can take a support person with you to the hospital, and they can accompany you through the exam, if you want. Do not disturb the crime scene—leave all sheets, towels, etc. that may bear information for the police to collect.

Will either party's prior use of drugs and/or alcohol be considered when reporting sexual misconduct?

No, not unless there is a compelling reason to believe that prior use or abuse is relevant to the present complaint.

Will a student be sanctioned when reporting an act of sexual misconduct if the student has illegally used drugs or alcohol?

No. The University offers amnesty in such situations. The seriousness of sexual misconduct is a major concern and the University does not want any of the circumstances (e.g., drug or alcohol use) to inhibit the reporting of sexual misconduct. (See "[Amnesty](#)" policy in Section 8(C) of the Code of Student Conduct.)

What should I do if I am uncertain about what happened?

If you believe that you have experienced non-consensual sexual contact, but are unsure of whether it was a violation of the University's Sexual Misconduct Policy, you should contact the Title IX coordinator and/or director of student conduct. The University also provides counselors who can help you to define and clarify the event(s), and advise you of your options.

Risk Reduction Tips

Tips like these tend to make victims feel blamed if a sexual assault occurs. It is never the victim's fault, and these tips are offered in the hope that recognizing patterns can help men and women to reduce the risk of victimization. That said, only a rapist or an empowered bystander can intervene to prevent a rape or assault. Generally, an assault by a known offender will follow a four-step pattern:

1. An individual's personal space is violated in some way. For example, the perpetrator may touch the victim in a way that does not feel comfortable.
2. If the victim does not express discomfort, the perpetrator may begin to view the victim as an easy target because they are not acting assertively.
3. The perpetrator may take the victim to a location that is secluded and where the victim is vulnerable.
4. The victim feels trapped or unable to be assertive and is raped or assaulted.

Decisive action early in an encounter may be the key to avoiding rape. An individual who can combine assertiveness and self-defense skills, who is self-confident and definite in their interactions with others, is less likely to become a victim of rape. If the individual can assertively defend their rights initially, they have a better chance of avoiding being raped than does a person who resorts to techniques such as pleading or trying to talk the perpetrator out of it. If you find yourself in an uncomfortable sexual situation, these suggestions may help you to reduce your risk:

1. Make your limits known before things go too far.
2. Give clear messages. Say "yes" when you mean yes and "no" when you mean no. Leave no room for misinterpretation. Tell a sexual aggressor "NO" clearly and loudly, like you mean it.
3. Try to extricate yourself from the physical presence of a sexual aggressor.

4. Grab someone nearby and ask for help.
5. Be responsible for your alcohol intake/drug use and realize that alcohol/drugs lower your sexual inhibitions and may make you more vulnerable to someone who views a drunk or high person as a sexual opportunity.
6. Watch out for your friends and ask that they watch out for you. A real friend will get in your face if you are about to make a mistake. Respect them if they do.
7. Be aware of any nonverbal messages you may be sending that conflict with what you are saying. Notice your tone of voice, gestures, and eye contact.
8. Be forceful and firm when necessary. Don't be concerned with being polite. Your passivity may be interpreted as permission or approval for this behavior.
9. Do not acquiesce to something you do not want just to avoid unpleasantness. Do not allow "politeness" to trap you in a dangerous situation. This is not the time to be concerned about hurt feelings.
10. Trust your feelings or instincts. If a situation does not feel comfortable to you or you feel anxious about the way the person you are with is acting, you need to respond. Leave immediately if necessary.

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk for being accused of sexual misconduct:

1. Do not make assumptions about:
 - Consent;
 - Someone's sexual availability;
 - Whether a person is attracted to you;
 - How far you can go; or
 - Whether a person is physically and mentally able to consent to you.
2. Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
3. Mixed messages from your partner should be a clear indication that you should step back, defuse the sexual tension, and communicate better. Perhaps you are misreading your partner. Perhaps your partner has not figured out how far they want to go with you yet. You need to respect the timeline with which your partner is comfortable.
4. Do not take advantage of someone's drunkenness or drugged state, even if they did it to themselves.
5. Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Do not abuse that power.
6. Understand that consent to some forms of sexual behavior does not necessarily imply consent to other forms of sexual behavior.

7. On this campus, silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.
8. Do not force someone to have sex with you, or have sex with a partner who has not clearly consented to you by words or actions unmistakable in their meaning.

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