

Equal Opportunity, Harassment, and Nondiscrimination for All Faculty, Students, Employees, and Third-Parties Policy and Procedures

1. Glossary

- *Advisor* means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct questioning for the party at the hearing, if any.
- *Appeal Decision-maker* means the person or panel who accepts or rejects a submitted appeal request, determines whether an error occurred that substantially affected the investigation or original determination, and directs corrective action, accordingly.
- *Complainant* means an individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on a protected characteristic; or retaliation for engaging in a protected activity.
- *Confidential Resource* means an employee who is not a Mandated Reporter of notice of harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority status).
- *Day* means a business day when the University of Mount Union is in normal operation.
- *Decision-maker* means the person or panel who hears evidence, determines relevance, and makes the final determination of whether this Policy has been violated and/or assigns sanctions.
- *Directly Related Evidence* is evidence connected to the complaint but is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and cannot be relied upon by the Decision-maker(s). Compare to relevant evidence, below.
- *Education program or activity* means locations, events, or circumstances where The University of Mount Union exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs and also includes any building owned or controlled by a student organization that is officially recognized by the University of Mount Union.
- *Final Determination*: A conclusion by a preponderance of the evidence that the alleged conduct did or did not violate policy.
- *Finding*: A conclusion by the preponderance of the evidence that the conduct did or did not occur as alleged (as in a “finding of fact”).
- *Formal Complaint* means a document submitted or signed by a Complainant or signed by the Title IX Co-coordinator or Senior Title IX Administrator alleging a Respondent engaged in harassment or discrimination based on a protected characteristic or retaliation for engaging in a protected activity and requesting that the University of Mount Union investigate the allegation(s).
- *Formal Grievance Process* means the method of formal resolution designated by the University of Mount Union to address conduct that falls within the policies included below, and which complies with the requirements of the Title IX regulations (34 CFR §106.45) and the Violence Against Women Act §304.
- *Grievance Process Pool* includes any investigators, **Hearing Decision-makers, Appeal Decision—makers** and Advisors who may perform any or all of these roles (though not at the same time or with respect to the same complaint).
- *Hearing Decision-maker* refers to those who have decision-making and sanctioning authority within the University of Mount Union’s Formal Grievance process.

- *Informal Resolution* is a complaint resolution agreed to by the Parties and approved by the Title IX Co-coordinator or Senior Title IX Administrator that occurs prior to a formal Final Determination being reached.
- *Investigator* means the person or persons authorized by the University of Mount Union to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an investigation report of Relevant Evidence and s file of Directly Related Evidence.
- *Mandated Reporter* means an employee of the University of Mount Union who is obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX co-coordinator [and/or their supervisor].¹
- *Notice* means that an employee, student, or third-party informs the Title IX Co-coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.
- *Official with Authority (OWA)* means an employee of the University of Mount Union who has responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of the University of Mount Union.
- *Parties* include the Complainant(s) and Respondent(s), collectively.
- *Process A* means the Formal Grievance Process detailed below and defined above.
- *Process B* means the administrative resolution procedures detailed in [Appendix D](#) that apply only when Process A does not, as determined by the Title IX Co-coordinator.
- *University of Mount Union* means a postsecondary education program that is a recipient of federal funding.
- *Relevant Evidence* is evidence that tends to prove (inculpatory) or disprove (exculpatory) an issue in the complaint.
- *Remedies* are post Final Determination actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the University of Mount Union’s educational program.
- *Respondent* means an individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination based on a protected characteristic; or retaliation for engaging in a protected activity under this Policy.
- *Resolution* means the result of an Informal or Formal Grievance Process.
- *Sanction* means a consequence imposed by the University of Mount Union on a Respondent who is found to have violated this policy.
- *Sexual Harassment* is the umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence. [See Section 17.b.](#) for greater detail.
- *Student* means any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing relationship with the University of Mount Union.
- *Title IX Co-coordinator* and Senior Title IX Administrator are the officials designated by the University of Mount Union to ensure compliance with Title IX and the University of Mount

¹ Not to be confused with those mandated by state law to report child abuse, elder abuse, and/or abuse of individuals with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility in this Policy.

Union's Title IX program. References to the co-coordinator(s) throughout this policy may also encompass a designee of the co-coordinator(s) for specific tasks.

- *Title IX Team* refers to the Senior Title IX Administrator, the Title IX co-coordinators, any deputy coordinators, any member of the Grievance Process Pool, and any members of the Decision-Maker pools.

2. Rationale for Policy

The University of Mount Union is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from discrimination and harassment, based on a protected characteristic, and retaliation for engaging in a protected activity.

University of Mount Union values and upholds the equal dignity of all members of its community and strives to balance the rights of parties in the grievance process during what is often a difficult time for all involved.

To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, University of Mount Union has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of protected characteristic, and for allegations of retaliation.

3. Applicable Scope

The core purpose of this policy is the prohibition of all forms of discrimination. Sometimes, discrimination involves exclusion from or different treatment in activities, such as admission, athletics, or employment. At other times, discrimination takes the form of harassment or, in the case of sex-based discrimination, can encompass sexual harassment, sexual assault, stalking, sexual exploitation, dating violence or domestic violence. When an alleged policy violation is reported, the allegations are subject to resolution using the University of Mount Union's "Process A" or "Process B," as determined by the appropriate Title IX co-coordinator, and as detailed below.

When the Respondent is a member of the University of Mount Union community, a Formal Complaint may be filed and a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the University of Mount Union community. This community includes, but is not limited to, students,² student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, vendors, contractors, invitees, and campers. The procedures below may be applied to incidents, to patterns, and/or to the institutional culture/climate, all of which may be addressed and investigated in accordance with this Policy.

The University of Mount Union recognizes that reports and/or Formal Complaints under this Policy may include multiple forms of discrimination and harassment as well as violations of other University of Mount Union policies; may involve various combinations of students, employees, and other members of the University of Mount Union community; and may require the simultaneous attention of multiple University departments. Accordingly, all University of Mount Union departments will share information,

² For the purpose of this policy, the University of Mount Union defines "student" as any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing relationship with the University of Mount Union.

combine efforts, and otherwise collaborate, to the maximum extent permitted by law and consistent with other applicable University policies, to provide uniform, consistent, efficient, and effective responses to alleged discrimination and harassment or retaliation.

4. Senior Title IX Administrator and Title IX Co-coordinators

The Chief Diversity Officer & Senior Title IX Administrator, the Associate Dean of Students, and the Director of Human Resources serve as the Title IX co-coordinators and oversee implementation of the University of Mount Union's Affirmative Action and Equal Opportunity plan and the University of Mount Union's equal opportunity, harassment, and nondiscrimination policy and procedures. These administrators have the primary responsibility for coordinating the University of Mount Union's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this Policy.

5. Independence and Conflict-of-Interest

The Chief Diversity Officer (CDO) & Title IX Administrator and the Title IX Co-coordinators jointly manage the Title IX Team and act with independence and authority free from bias and conflicts of interest. They oversee all resolutions under this Policy and these procedures. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias or conflict of interest by the Senior Title IX Administrator or one of the Title IX co-coordinators, contact the non-involved Title IX co-coordinator or administrator. Concerns of bias, misconduct, discrimination, or a potential conflict of interest by any other Title IX Team member should be raised with the CDO & Senior Title IX Administrator or as appropriate with one of the Title IX Co-coordinator.

Reports of misconduct or discrimination committed by the CDO & Senior Title IX Administrator or either Title IX Co-coordinator should be reported to the University of Mount Union President, Gregory L. King at kinggl@mountunion.edu or 330-823-6050. Reports of misconduct or discrimination committed by any other Title IX Team member should be reported to the CDO & Senior Title IX Administrator or either Title IX co-coordinator.

6. Administrative Contact Information

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made internally to:

Mark Black, chief diversity officer & senior Title IX administrator
Beeghly Hall, DEIB Office
Phone: (330) 829-4904
Email: blackma@mountunion.edu

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

Andrew Boothe, Jr., associate diversity officer & Title IX co-coordinator
Beeghly Hall, DEIB Office

1972 Clark Avenue, Alliance, OH 44601
Phone: (330) 823-6500
E-mail: bootheac@mountunion.edu

The University of Mount Union Title IX website can be found [here](#).

Reports can also be made via an [online report](#) which goes directly to the Senior Title IX Administrator and Title IX CO-coordinators or via the University's [EthicsPoint reporting mechanism](#).

The University of Mount Union Title IX Grievance pool, is composed of a pool of trained faculty and staff who may be assigned to serve in the role of either investigator or advisor. The University of Mount Union also has a pool of trained faculty and staff who serve as Title IX Decision-Makers and Title IX Appeal Decision-Makers. Additional Title IX Pool members are added as training allows. Please find the most recent list of individuals and their roles [online](#).

The University of Mount Union has designated the listed faculty and staff members on the Title IX webpage as Officials with Authority (OWAs) to address and correct harassment, discrimination, and/or retaliation. As such, any of the faculty and staff members listed above may also accept notice of complaints on behalf of the University of Mount Union.

The University of Mount Union has classified most employees as Mandated Reporters of any knowledge they have that a member of the community is experiencing harassment, discrimination, and/or retaliation. The section below on Mandated Reporting details which employees have this responsibility and their duties, accordingly.

Inquiries may be made externally to:

Office for Civil Rights (OCR)

U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: ed.gov/ocr

The Ohio Office of Civil Rights can be found at:

Cleveland Office
U.S. Department of Education
1350 Euclid Avenue
Suite 325
Cleveland, OH 44115
Telephone: (216) 522-4970
Facsimile: (216) 522-2573
Email: OCR.Cleveland@ed.gov

For complaints involving employee-on-employee conduct: [Equal Employment Opportunity Commission \(EEOC\)](#)

7. Notice/Complaints of Discrimination, Harassment, and/or Retaliation

Notice or complaints of discrimination, harassment, and/or retaliation may be made using any of the following options:

1. File a report or Formal Complaint with, or give verbal notice to, the CDO & Senior Title IX Administrator or Title IX co-coordinators at:

Mark Black, chief diversity officer & Senior Title IX admin
Beeghly Hall, Office of the President
1972 Clark Ave, Alliance, OH 44601
Phone: (330) 829-4904
Email: blackma@mountunion.edu

Michelle Gaffney, associate dean of students & Title IX co-coordinator
Hoover Price Campus Center, Office of Student Affairs
1972 Clark Ave., Alliance, OH 44601
Phone: (330) 823-2496
E-mail: gaffnemi@mountunion.edu

Andrew Boothe, Jr., associate diversity officer & Title IX co-coordinator
Beeghly Hall, DEIB Office
1972 Clark Avenue, Alliance, OH 44601
Phone: (330) 823-6500
E-mail: bootheac@mountunion.edu

Such a report or Formal Complaint may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX co-coordinator or any other official listed.

Reports can also be made via an [online report](#) which goes directly to the Senior Title IX Administrator and Title IX Co-coordinators or via the University's [EthicsPoint](#) reporting mechanism.

Anonymous reports are accepted but can give rise to a need to investigate to determine if the parties can be identified. If not, no further formal action is taken, though measures intended to protect the community may be enacted. The University of Mount Union tries to provide supportive measures to all Complainants, which may be impossible with an anonymous report that does not identify the Complainant.

Because reporting carries no obligation to initiate a formal response, and because the University of Mount Union respects Complainant requests to dismiss complaints unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of privacy by making a report that allows the University of Mount Union to discuss and/or provide supportive measures.

As used in this Policy, the term “Formal Complaint” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the University of Mount Union) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and requests that the University of Mount Union investigate the allegations.

If notice is submitted in a form that does not meet this standard, the Senior Title IX Administrator or Title IX co-coordinator will contact the Complainant to ensure that it is filed correctly.

8. Supportive Measures

The University of Mount Union will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged harassment, discrimination, and/or retaliation.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available. They are offered without fee or charge to the parties to restore or preserve access to the University of Mount Union’s education program or activity, including measures designed to protect the safety of all parties or the University of Mount Union’s educational environment, and/or deter harassment, discrimination, and/or retaliation.

The CDO & Senior Title IX Administrator or Title IX co-coordinators promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, the University of Mount Union will inform the Complainant, in writing, that they may file a Formal Complaint with the University of Mount Union either at that time or in the future, if they have not done so already. The CDO & Senior Title IX Administrator or Title IX co-coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

The University of Mount Union will maintain the confidentiality of the supportive measures, provided that privacy does not impair the University of Mount Union’s ability to provide the supportive measures. The University of Mount Union will act to ensure as minimal an academic/occupational impact on the parties as possible. The University of Mount Union will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to [counseling, medical](#), and/or other healthcare services
- Referral to the [Employee Assistance Program](#) (Impact Solutions)
- Referral to community-based service providers
- Visa and immigration assistance
- [Student financial aid counseling](#)
- Education to the institutional community or community subgroup(s)
- [Altering campus housing assignment\(s\)](#)
- Altering work arrangements for employees or student-employees
- Safety planning
- [Providing campus safety escorts](#)
- Providing transportation assistance
- Implementing contact limitations (no contact orders) between the parties
- [Academic support, extensions of deadlines, or other course/program-related adjustments](#)

- Persona Non Grata (PNG) orders
- [Timely warnings](#)
- Class schedule modifications, withdrawals, or leaves of absence
- [Increased security and monitoring of certain areas of the campus](#)
- Any other actions deemed appropriate by the CDO & Senior Title IX Administrator or Title IX Co-coordinator(s)

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

9. Emergency Removal

The University of Mount Union can act to remove a student Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the CDO & Senior Title IX Administrator or Title IX co-coordinator in conjunction with the CARE (Concern – Assess – Respond – Engage) Team using its standard objective violence risk assessment procedures.

In all cases in which an emergency removal is imposed, the student will be given notice of the action and the option to request to meet with the appropriate Title IX Administrator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested in a timely manner, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the CDO & Senior Title IX Administrator or Title IX co-coordinator determines it is equitable to do so. This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to Title IX. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor of their choice when meeting with the CDO & Senior Title IX Administrator or Title IX co-coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The CDO & Senior Title IX Administrator or Title IX co-coordinator has sole discretion under this Policy to implement or modify an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline within the student or employee conduct process, which may include expulsion or termination.

The University of Mount Union will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the CDO & Senior Title IX Administrator or Title IX co-coordinator, these actions could include, but are not limited to: removing a student from a residence hall, temporarily re-assigning an employee, restricting a student's or employee's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

At the discretion of the CDO & Senior Title IX Administrator or Title IX co-coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact on the parties as possible.

Where the Respondent is an employee, or student employee, accused of misconduct in the course of their employment, existing provisions for interim action are applicable instead of the emergency removal process.

10. Promptness

Once the University of Mount Union has received notice of a Formal Complaint, all allegations are promptly acted upon. Complaints can take 60-90 business days to resolve. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the University of Mount Union will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in the University of Mount Union's procedures will be delayed, the University of Mount Union will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

11. Confidentiality/Privacy

Every effort is made by the University of Mount Union to preserve the confidentiality of reports.³ The University of Mount Union will not share the identity of any individual who has made a report or Formal Complaint of harassment, discrimination, or retaliation; any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, any individual who has been reported to be the perpetrator of harassment, discrimination, or retaliation; any Respondent; or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including any investigation, hearing, or grievance proceeding arising under these policies and procedures.

³ For the purpose of this policy, privacy and confidentiality have distinct meanings. **Privacy** means that information related to a complaint will be shared with a limited number of the University of Mount Union employees who "need to know" in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in the University of Mount Union's response to notice under this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act ("FERPA"), as outlined in the University of Mount Union's Student Records Policy. The privacy of employee records will be protected in accordance with Human Resources policies. **Confidentiality** exists in the context of laws that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses. The University of Mount Union has designated individuals who have the ability to have privileged communications as Confidential Resources. For more information about Confidential Resources, see page 117. When information is shared by a Complainant with a Confidential Resource, the Confidential Resource cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when: (i) the individual gives written consent for its disclosure; (ii) there is a concern that the individual will likely cause serious physical harm to self or others; or (iii) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or individuals with disabilities. Non-identifiable information may be shared by Confidential Resources for statistical tracking purposes as required by the federal Clergy Act. Other information may be shared as required by law.

The University of Mount Union reserves the right to determine which University of Mount Union officials have a legitimate educational interest in being informed about incidents that fall within this Policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Only a small group of officials who need to know will typically be told about the complaint, including but not limited to: the Office of Human Resources, the Division of Student Affairs, Campus Safety and Security, the CARE Team, and College Deans and Vice Presidents. Information will be shared as necessary with Investigators, Decision-Makers, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

The University of Mount Union may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk but will usually consult with the student first before doing so. Minors will be treated the same as any student throughout this process.

Confidentiality and mandated reporting are addressed more specifically [below](#).

12. Jurisdiction of the University of Mount Union

This policy applies to the education program and activities of the University of Mount Union, to conduct that takes place on property owned or controlled by the University of Mount Union, at University of Mount Union-sponsored events, and in buildings owned or controlled by University of Mount Union's recognized student organizations. The Respondent must be a member of University of Mount Union's community in order for this Policy to apply.

This Policy can also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to the University of Mount Union's educational program or activities. The University of Mount Union may also extend jurisdiction to off-campus and/or to online conduct when the CDO & Senior Title IX Administrator or Title IX co-coordinator determines that the conduct affects a substantial University of Mount Union interest.

Regardless of where the conduct occurred, the University of Mount Union will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus (**including virtual learning and employment environment**) or in an off-campus sponsored program or activity. A substantial University of Mount Union interest includes:

- a. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law.
- b. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual.
- c. Any situation that significantly impinges upon the rights, property, or achievements of oneself or others, significantly breaches the peace, and/or causes social disorder.
- d. Any situation that substantially interferes with the educational interests or mission of the University of Mount Union.

If the Respondent is unknown or is not a member of the University of Mount Union community, the CDO & Senior Title IX Administrator or Title IX co-coordinator will assist the Complainant in identifying appropriate campus and local resources and support options. If criminal conduct is alleged, the University can assist in contacting local law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of the University of Mount Union's community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the CDO & Senior Title IX Administrator or Title IX co-coordinator.

In addition, the University of Mount Union may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from University of Mount Union property and/or events.

All vendors serving the University of Mount Union through third-party contracts are subject to the policies and procedures of their employers and/or to these policies and procedures to which their employer has agreed to be bound by their contracts.

When the Respondent is enrolled in or employed by another institution, the CDO & Senior Title IX Administrator or Title IX Co-coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies.

Similarly, the CDO & Senior Title IX Administrator or Title IX co-coordinator may be able to assist and support a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to the University where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give the Complainant recourse.

13. Time Limits on Reporting

There is no time limitation on providing notice/complaints to the CDO & Senior Title IX Administrator or Title IX Co-coordinator. However, if the Respondent is no longer subject to the University of Mount Union's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the CDO & Senior Title IX Administrator or Title IX co-coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When notice/complaint is affected by significant time delay, the University of Mount Union will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/complaint.

14. Online Harassment and Misconduct

The policies of University of Mount Union are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on the University of Mount Union's education program and activities or use University of Mount Union networks, technology, or equipment.

Although University of Mount Union may not control websites, social media, and other venues through which harassing communications are made, when such communications are reported to University of Mount Union, it will engage in a variety of means to address and mitigate the effects.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via social media, unwelcome sexual or sex-based messaging, distributing or threatening to distribute nude or semi-nude

photos or recordings; breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the University of Mount Union community.

Otherwise, such communications are considered speech protected by the First Amendment. Unless the poster is a student and their post violates the Code of Student Conduct.

Off-campus harassing speech by employees, whether online or in person, may be regulated by the University of Mount Union when such speech is made in an employee's official or work-related capacity or impacts the employee's ability to work within the university community.

Supportive measures for Complainants will be provided, but protected speech cannot legally be subjected to discipline.

15. Policy on Nondiscrimination

The University of Mount Union adheres to all federal, state, and local civil rights laws and regulations prohibiting discrimination in private institutions of higher education.

A. Protected Characteristics

The University of Mount Union does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of the following protected characteristics:

- Race
- Gender
- Gender identity or expression
- Sex
- Sexual orientation
- Religion
- Age
- Color
- Creed
- National or ethnic origin
- Veteran status
- Marital or parental status
- Pregnancy
- Disability
- Genetic information
- or any other protected characteristic under applicable local, state, or federal law, including protections for those opposing discrimination or participating in any grievance process within the institution, with the Equal Employment Opportunity Commission, and/or other human/civil rights agencies.

This policy covers nondiscrimination in both employment and access to educational opportunities. Therefore, any member of the University of Mount Union community whose acts deny, deprive, or limit the educational or employment or residential and/or social access, benefits, and/or opportunities of any member of the University of Mount Union community, guest, or visitor on the basis of that person's actual or perceived protected characteristics listed above is in violation of the University of Mount Union's Policy on Nondiscrimination.

When brought to the attention of the University of Mount Union, any such discrimination will be promptly and fairly addressed and remedied by the University of Mount Union according to the appropriate grievance process described below.

B. Inclusion Related to Gender Identity/Expression

The University of Mount Union strives to ensure that all individuals are safe, included, and respected in their working and learning environments, regardless of their gender identity or expression, including intersex, transgender, agender, and gender diverse students and employees.

Discrimination on the basis of gender identity or expression is not tolerated by the University of Mount Union. If a member of the University of Mount Union community feels they have been subjected to discrimination under this Policy, they should follow the appropriate reporting/Formal Complaint process described above.

In upholding the principles of equity and inclusion, the University of Mount Union supports the full integration and healthy development of those who are transgender, transitioning, or gender diverse, and seeks to eliminate any stigma related to gender identity and expression.

The University of Mount Union is committed to fostering a climate where all identities are valued and create a more vibrant and diverse community. The purpose of this Policy is to have the University of Mount Union administratively address issues some students and employees, including those identifying as intersex, transgender, agender, and gender diverse, may confront as they navigate systems originally designed around the assumption that gender is binary. As our society's understanding of gender evolves, so do the University's processes and policies.

Concepts like misgendering and deadnaming may not be familiar to all but understanding them is essential to the University of Mount Union's goal of being as welcoming and inclusive a community as possible. Faculty, staff, and students have the opportunity to indicate a chosen name and pronouns in Colleague Self-Service. A legal name change requires official documentation be given to either the Registrar's Office (student) or the Office of Human Resources (employees).

Misgendering is the intentional or unintentional use of pronouns or identifiers that are different from those used by an individual. Unintentional misgendering is usually resolved with a simple apology if someone clarifies their pronouns for you. Intentional misgendering is inconsistent with the type of community we hold ourselves out to be. We all get to determine our own gender identity and expression, but we don't get to choose someone else's.

Deadnaming, along with misgendering, can be very traumatic to a person who is transgender, transitioning, or gender diverse. Deadnaming means using someone's birth-assigned (cisgender) name, rather than the name they have chosen.

To a person who is transgender, transitioning, or gender diverse, their cisgender identity may be something that is in their past, dead, and buried, and behind them. To then revive their deadname could trigger issues, traumas, and experiences of the past that the individual has moved past, or is moving past, and can interfere with their health and well-being.

Again, unintentional deadnaming can be addressed by a simple apology and an effort to use the person's chosen name. Intentional deadnaming could be a form of bullying, outing, or otherwise harassing and invidious, and thus should be avoided.

This policy should be interpreted consistent with the goals of maximizing the inclusion of intersex, transgender, transitioning, agender, and gender diverse students and employees, including:

- Maintaining the privacy of all individuals consistent with the law;
- Ensuring all students equal access to educational programming, activities, and facilities, including restrooms and locker rooms;
- Ensuring all employees equal access to employment opportunities and work, service, or health-related facilities;
- Providing professional development for employees and education for students on topics related to gender inclusion, and;
- Encouraging all students and employees to respect the pronoun usage and identities of all members of the University community.

The University of Mount Union has set forth its specific processes for implementing this Policy through the accompanying Title IX-related procedures.

16. Policy on Disability Discrimination and Accommodation

The University of Mount Union is committed to full compliance with the Americans with Disabilities Act of 1990 (ADA), as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified persons with disabilities, as well as other federal, state, and local laws and regulations pertaining to individuals with disabilities.

Under the ADA and its amendments, a person has a disability if they have a physical or mental impairment that substantially limits a major life activity.

The ADA also protects individuals who have a record of a substantially limiting impairment or who are regarded as disabled by the University of Mount Union, regardless of whether they currently have a disability. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking, or caring for oneself.

The director of human resources has been designated as University of Mount Union's ADA/504 Coordinator responsible for overseeing efforts to comply with these disability laws, including responding to grievances and conducting investigations of any allegation of noncompliance or discrimination based on disability.

Grievances related to disability status and/or accommodations will be addressed using the procedures below. For concerns relating to disability accommodations in the University of Mount Union's resolution process, please contact the CDO & Senior Title IX Administrator.

A. Students with Disabilities

The University of Mount Union is committed to providing qualified students with disabilities with reasonable accommodations and support needed to ensure equal access to the academic programs, facilities, and activities of the University of Mount Union.

All accommodations are made on an individualized basis. A student requesting any accommodation should first contact the director of student accessibility services, who coordinates services for students with disabilities.

The director of student accessibility services reviews documentation provided by the student and, in consultation with the student, determines which accommodations are appropriate for the student's particular needs and academic program(s) in accordance with University of Mount Union's applicable policies.

B. Employees with Disabilities

Pursuant to the ADA, University of Mount Union will provide reasonable accommodation(s) to all qualified employees with known disabilities when their disability affects the performance of their essential job functions, except when doing so would be unduly disruptive or would result in undue hardship to the University of Mount Union.

An employee with a disability is responsible for submitting a request for an accommodation to the director of human resources and providing necessary documentation. The director of human resources will work with the employee's supervisor to identify which essential functions of the position are affected by the employee's disability and what reasonable accommodations could enable the employee to perform those duties in accordance with University of Mount Union's applicable policies.

17. Policy on Discriminatory Harassment

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of discriminatory harassment. The University of Mount Union's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited harassment that are also prohibited under University of Mount Union policy. When speech or conduct is protected by academic freedom, it will not be considered a violation of University of Mount Union policy, though supportive measures will be offered to those impacted. All policies encompass actual and/or attempted offenses.

A. Discriminatory Harassment

Discriminatory harassment is defined as unwelcome conduct by any member or group of the community on the basis of actual or perceived characteristic protected by policy or law – is a form of discrimination under the University of Mount Union Policy.

The University of Mount Union does not tolerate discriminatory harassment of any employee, student, visitor, or third party. The University of Mount Union will act to remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a "hostile environment."

A hostile environment is one that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities. This discriminatory effect results from harassing verbal, written, graphic, and/or physical conduct that is severe or pervasive **and** objectively offensive.

When discriminatory harassment rises to the level of creating a hostile environment, the University of Mount Union may also impose sanctions on the Respondent through application of the appropriate grievance process.

The University of Mount Union 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 and not based on a protected characteristic. Addressing such conduct will not result in the imposition of discipline

under University of Mount Union Policy, but may be addressed through respectful conversation, remedial actions, education, effective Alternate Resolution, and/or other Informal Resolution mechanisms.

For assistance with Alternate Resolution and other Informal Resolution techniques and approaches, employees should contact the director of human resources, and students should contact the director of student conduct & community standards.

B. Sexual Harassment

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the state of Ohio regard Sexual Harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice.

The University of Mount Union has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community. Two definitions are required by federal law. While they overlap, they are not identical, and they each apply as noted.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Title VII/FHA Sexual Harassment applies to situations where an employee is subjected to workplace sexual harassment or where a situation involves a residential Complainant in University provided housing.

1. Unwelcome verbal, written, graphic, and/or physical conduct;
2. that is severe or pervasive and objectively offensive;
3. on the basis of sex/gender, that unreasonably interferes with, limits, or effectively denies an individual's education or employment access, benefits, or opportunities

Title IX Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking. This definition applies to all formal complaints that fall within Title IX jurisdiction as determined by the CDO & Senior Title IX Administrator or Title IX Co-Coordinator. Sexual harassment includes:

Conduct on the basis of sex/gender or that is sexual that satisfies one or more of the following:

1. Quid Pro Quo:
 - a. an employee of the University of Mount Union,
 - b. conditions⁴ the provision of an aid, benefit, or service of the University of Mount Union,
 - c. on an individual's participation in unwelcome sexual conduct.
2. Sexual Harassment:
 - a. unwelcome conduct,
 - b. determined by a reasonable person,
 - c. to be so severe, and
 - d. pervasive, and,
 - e. objectively offensive,
 - f. that it effectively denies a person equal access to the University of Mount Union's

⁴ Implicitly or explicitly.

education program or activity.⁵

3. Sexual assault, defined as:
 - a) Any sexual act⁶ directed against a Complainant⁷:
 - without their consent or,
 - including instances in which the Complainant is incapable of giving consent.
 - b) Incest:
 - Non-forcible sexual intercourse,
 - between persons who are related to each other,
 - within the degrees wherein marriage is prohibited by Ohio law.
 - c) Statutory Rape:
 - Non-forcible sexual intercourse,
 - with a person who is under the statutory age of consent of 16
4. Dating Violence, defined as:
 - a. violence,
 - b. on the basis of sex,
 - c. committed by a person,
 - d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
 - The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
 - Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - Dating violence does not include acts covered under the definition of domestic violence.
5. Domestic Violence, defined as:
 - a. violence,
 - b. on the basis of sex,
 - c. committed by a current or former spouse or intimate partner of the Complainant,
 - d. by a person with whom the Complainant shares a child in common, or
 - e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
 - f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Ohio, or
 - g. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Ohio.

*To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

6. Stalking, defined as:

⁵ Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

- a. engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at a specific person, that
 - o would cause a reasonable person to fear for the person's safety, or
 - o the safety of others; or
 - o Suffer substantial emotional distress.

For the purposes of this definition—

- Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

The University of Mount Union reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this Policy. The most serious offenses are likely to result in suspension/expulsion/termination.

C. Force, Coercion, Consent, and Incapacitation

As used in the offenses above, the following definitions and understandings apply:

Force: Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., "Have sex with me or I'll hit you," which elicits the response "Okay, don't hit me, I'll do what you want.>").

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Coercion: Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, 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.

Consent is:

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.

Individuals may experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

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. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain *their* consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonably immediate time.

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 intimate relationship is not sufficient to constitute consent. If an individual expresses conditions on their willingness to consent (e.g., use of a condom) or limitations on the scope of their consent, those conditions must be respected.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the University of Mount Union to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged misconduct occurred and any similar, and previous patterns that may be evidenced.

Consent in relationships must also be considered in context. When parties consent to BDSM⁶ or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual, hence the University of Mount Union’s evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-kink relationships as a default.

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 by alcohol or other drug consumption. As stated above, a Respondent violates this Policy if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. “Should have known” is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when 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).

⁶ Bondage, discipline/dominance, submission/sadism, and masochism.

Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.

D. Other Civil Rights Offenses

In addition to the forms of sexual harassment described above, which are covered by Title IX, the University of Mount Union additionally prohibits the following offenses as forms of discrimination that may be within or outside of Title IX when the act is based upon the Complainant's actual or perceived protected characteristic.

1) Sexual Exploitation, defined as:

- taking non-consensual or abusive sexual advantage of another
- for their own benefit or for the benefit of anyone other than the person being exploited, and
- that conduct does not otherwise constitute sexual harassment under this policy.

Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Invasion of sexual privacy (e.g., doxing)
- Knowingly making an unwelcome disclosure of (r threatening o disclose) an individual's sexual orientation, gender identity, or gender expression
- Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography
- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually-transmitted disease (STD) or infection (STI), without informing the other person of the infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g. spoofing)
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity
- Engaging in sex trafficking
- Knowingly creating, possessing, or disseminating child pornography

2) Harm Endangerment, defined as:

- a) threatening or causing physical harm;
- b) extreme verbal, emotional, or psychological abuse;

- c) or other conduct which threatens or endangers the health or safety of any person or damages their property.
- 3) Discrimination, defined as
 - a) actions that deprive, limit, or deny
 - b) other members of the community
 - c) of educational or employment access, benefits, or opportunities,
 - d) including disparate treatment.
- 4) Intimidation, defined as :
 - a) implied threats or
 - b) acts that cause the Complainant an unreasonable fear of harm.
- 5) Hazing, defined as:
 - a) acts likely to cause physical or psychological harm or social ostracism
 - b) to any person within the University of Mount Union community,
 - c) when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the Hazing Policy and statement found in the Student Handbook);
- 6) Bullying, defined as:
 - a) Repeated and/or severe aggressive behavior
 - b) that is likely to intimidate or intentionally hurt, control, or physically or mentally diminish the Complainant,
 - c) that is not speech or conduct otherwise protected by the First Amendment.

Violation of any other University of Mount Union policies may constitute a Civil Rights Offense when a violation is motivated by actual or perceived protected characteristic(s), and the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities.

Sanctions for the above-listed Civil Rights Offenses range from warning through expulsion/termination.

Code of Ethical Behavior Policy Statement

Faculty and staff members exercise power over students, whether in evaluating them, writing recommendations for them, supervising their work, or serving on University committees. Professionalism is diminished when those in positions of authority abuse or appear to abuse their power. Codes of ethics for most professions forbid such professional-client relationships, including sexual relationships. In the view of the University, the faculty/staff-student relationship is one of professional and client. The University will view it as professionally unethical if faculty or staff members engage in sexual relationships with Mount Union students, or personal relationships in which the faculty or staff member misuses their power over a student of the University, even when both parties have consented to the relationship.

If any personal or familial relationship exists prior to one of the parties entering the University, the faculty or staff member should discuss the situation with their supervisor and arrangements should be made so that, if possible, the faculty or staff member would not be directly involved in an evaluative relationship with the student.

The University of Mount Union reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy.

18. Retaliation

Protected activity under this Policy includes reporting alleged misconduct that may implicate this Policy, participating in the resolution process, supporting a Complainant or Respondent, assisting in providing

information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the CDO & Senior Title IX Administrator or the appropriate Title IX Co-coordinator and will be promptly investigated. The University of Mount Union will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

The University of Mount Union and any member of the University of Mount Union's community are prohibited from taking or attempting to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and procedure.

Filing a complaint within Process B could be considered retaliatory if those allegations could be applicable under Process A, when the Process B allegations are made for the purpose of interfering with or circumventing any right or privilege provided afforded within Process A that is not provided by Process B. Therefore, the University of Mount Union vets all complaints carefully to ensure this does not happen, and to assure that complaints are routed to the appropriate process.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Pursuing a Student Code of Conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this Policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.

19. Mandated Reporting

All University of Mount Union employees (faculty, staff, administrators) are expected to report actual or suspected discrimination, harassment, and/or retaliation to appropriate officials immediately, though there are some limited exceptions.

To make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. Within the institution, some resources may maintain confidentiality and are not required to report actual or suspected harassment, discrimination, or retaliation in a way that identifies the parties. They may offer options and resources without any obligation to inform an outside agency or campus official unless a Complainant has requested the information be shared.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report alleged crimes and/or Policy violations, and these employees will immediately pass reports to the appropriate CDO & Senior Title IX Administrator or Title IX Co-coordinator (and/or police, if desired by the Complainant or required by law), who will take action when an incident is reported to them.

The following sections describe the reporting options at University of Mount Union for a Complainant or third-party (including parents/guardians when appropriate):

A. Confidential Resources

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with:

- On-campus licensed professional counselors and staff
- On-campus health service providers and staff
- On-campus members of the clergy/chaplains working within the scope of their licensure or ordination
- Off-campus Community-based (non-employees):
 - Licensed professional counselors and other medical providers
 - Local rape crisis counselors
 - Domestic violence resources
 - Local or state assistance agencies
 - Clergy/Chaplains
 - Attorneys

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, professional credentials, or official designation, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

University counselors (for students) or the Employee Assistance Program (for faculty or staff) are available to help free of charge and may be consulted on an emergency basis during normal business hours or after hours via on-call procedures outlined on their websites.

Employees who have confidentiality as defined above, and who receive reports within the scope of their confidential roles will timely submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client, patient, or parishioner.

B. Anonymous Notice to Mandated Reporters

At the request of a Complainant, notice may be given anonymously (i.e., without identification of the Complainant) by a Mandated Reporter to the CDO & Senior Title IX Administrator or Title IX Co-coordinator. The Mandated Reporter cannot remain anonymous themselves.

If a Complainant has requested that a Mandated Reporter maintain the Complainant's anonymity, the Mandated Reporter may do so unless it is reasonable to believe that a compelling threat to health or safety could exist. The Mandated Reporter can consult with the CDO & Senior Title IX Administrator or Title IX co-coordinator on that assessment without revealing personally identifiable information.

Anonymous notice will be investigated by the University of Mount Union to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or remedies can be provided.

However, anonymous notice typically limits the University of Mount Union's ability to investigate, respond, and provide remedies, depending on what information is shared.

When a Complainant has made a request for anonymity, the Complainant's personally identifiable information may be withheld by a Mandated Reporter, but all other details must be shared with the CDO & Senior Title IX Administrator or Title IX co-coordinator. Mandated reporters may not be able to maintain requests for anonymity for Complainants who are minors, elderly, and/or disabled, due to Ohio mandated reporter requirements.

C. Mandated Reporters and Formal Notice/Complaints

All employees of the University of Mount Union (including student employees), with the exception of those who are designated as Confidential Resources, are Mandated Reporters and must promptly share with the CDO & Senior Title IX Administrator or Title IX co-coordinator all known details of a report made to them in the course of their employment.

Employees must also promptly share all details of behaviors under this Policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Mandated Reporters, as those details must be shared with the CDO & Senior Title IX Administrator or the appropriate Title IX co-coordinator.

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as “Take Back the Night” marches or speak-outs do not provide notice that must be reported to the CDO & Senior Title IX Administrator or Title IX Co-coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or a seek a specific response from the University of Mount Union.

Supportive measures may be offered as the result of such disclosures without formal University of Mount Union action.

Failure of a Mandated Reporter, as described above in this section, to report an incident of harassment, discrimination, or retaliation of which they become aware is a violation of University of Mount Union policy and can be subject to disciplinary action for failure to comply/failure to report.

Though this may seem obvious, when a Mandated Reporter is engaged in harassment or other violations of this policy, they still have a duty to report their own misconduct, though the University of Mount Union is technically not on notice when a harasser is also a Mandated Reporter unless the harasser does in fact report themselves.

Finally, it is important to clarify that a Mandated Reporter who is themselves a target of harassment or other misconduct under this policy is not required to report their own experience, though they are, of course, encouraged to do so.

20. When a Complainant Does Not Wish to Proceed

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a Formal Complaint to be pursued, they may make such a request to the CDO & Senior Title IX Administrator or Title IX Co-coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The CDO & Senior Title IX Administrator or Title IX Co-coordinator has ultimate discretion over whether the University of Mount Union proceeds when the Complainant does not wish to do so, and the CDO & Senior Title IX Administrator or Title IX Co-coordinator may sign a Formal Complaint to initiate a grievance process, usually upon completion of an appropriate violence risk assessment.

The CDO & Senior Title IX Administrator or Title IX Co-coordinator’s decision should be based on results of the violence risk assessment that shows a compelling risk to health and/or safety that requires the University of Mount Union to pursue formal action to protect the community.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. The University of Mount Union may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The CDO & Senior Title IX Administrator or Title IX Co-coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and the University of Mount Union's ability to pursue a Formal Grievance Process fairly and effectively.

When the CDO & Senior Title IX Administrator or Title IX Co-coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this Policy.

When the University of Mount Union proceeds, the Complainant (and/or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant, though this does not extend to the provision of evidence or testimony.

Note that the University of Mount Union's ability to remedy and respond to notice may be limited if the Complainant does not want the University of Mount Union to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing the University of Mount Union's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow the University of Mount Union to honor that request, the University of Mount Union may offer Informal Resolution options, supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a Formal Complaint at a later date. Upon making a Formal Complaint, a Complainant has the right, and can expect, to have allegations taken seriously by the University of Mount Union, and to have the incidents investigated and properly resolved through these procedures. Please consider that delays may cause limitations on access to evidence, or present issues with respect to the status of the parties.

21. Federal Timely Warning Obligations

The University of Mount Union must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

The University of Mount Union will ensure that a Complainant'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 potential danger.

22. False Allegations and Evidence

Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation, hearing, or Informal Resolution can be subject to discipline under University of Mount Union Policy.

23. Amnesty for Complainants and Witnesses

The University of Mount Union community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to University of Mount Union officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the University of Mount Union community that Complainants choose to report misconduct to University of Mount Union officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, the University of Mount Union maintains a policy of offering parties and witnesses amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident.

A. Students: Sometimes, students are hesitant to assist others for fear that they may get in trouble themselves (for example, an underage student who has been drinking or using marijuana might hesitate to help take an individual who has experienced sexual assault to their resident assistant or resident director).

The University of Mount Union maintains a policy of amnesty for students who offer help to others in need or are engaged in minor violations but who choose to bring related serious violations by others to the attention of the University. Although policy violations cannot be overlooked, the University of Mount Union may provide purely educational options with no official conduct finding, rather than punitive sanctions, to those who offer their assistance to others in need. The full amnesty policy for students can be found in the Student Handbook.

B. Employees: Sometimes, employees are hesitant to report harassment, discrimination, or retaliation they have experienced for fear that they may get in trouble themselves. For example, an employee who has violated the Code of Behavioral Policy and is then assaulted in the course of that relationship might hesitate to report the incident to University of Mount Union officials.

The University of Mount Union may, at its discretion, offer employee Complainants amnesty from such policy violations (typically more minor policy violations) related to the incident. Amnesty may also be granted to Respondents and witnesses on a case-by-case basis.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty to a Respondent is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to the Respondent with respect to a Complainant.

24. Federal Statistical Reporting Obligations

Certain campus officials – those deemed Campus Security Authorities – have a duty to report the following for federal statistical reporting purposes (Clery Act):

- 1) All “primary crimes,” which include criminal homicide, rape, fondling, incest, statutory rape, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
- 2) Hate crimes, which include any bias-motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;
- 3) VAWA-based crimes,⁷ which include sexual assault, domestic violence, dating violence, and stalking; and
- 4) Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private, but statistical information must be shared with Campus Security or the Office of Student Conduct regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

Campus Security Authorities include: all university non-student employees except those exceptions to the Mandatory Reporter status as well as those student employees who serve as residence life staff members, raider or preview guides or learning assistants.

25. Preservation of Evidence

The preservation of evidence in incidents of sexual assault is critical to potential criminal prosecution and to obtaining restraining/protective orders and is particularly time sensitive. The University of Mount Union will inform the Complainant of the importance of preserving evidence by taking actions such as the following:

Sexual Assault

1. Seek forensic medical assistance at the Aultman Community Hospital – located in Canton, ideally within 120 hours of the incident (sooner is better).
2. Avoid urinating, showering, bathing, washing hands or face, or douching, if possible, although evidence may still be collected even if you do.
3. If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
4. If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence). If you do not have a paper bag, Campus Safety and Security can provide one for you.
5. Seeking medical treatment can be essential even if it is not for the purposes of collecting forensic evidence.

Stalking

1. Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number
 - a. Make a secondary recording of any voice messages and/or save the audio files to a cloud server
 - b. Take screenshots and/or a video recording of any text messages or other electronic messages (e.g. Instagram, Snapchat, Facebook).

⁷ VAWA is the Violence Against Women Act, enacted in 1994 codified in part at 42 U.S.C. sections 13701 through 14040.

2. Save copies of e-mail and social media correspondence, including notifications related to account access alerts.
3. Take timestamped photographs of any physical evidence including notes, gifts, etc. in place when possible.
4. Save copies of any messages, to include those showing any request for no further contact.
5. Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible.

During the initial meeting between the Complainant and the CDO & Senior Title IX Administrator or Title IX Co-coordinator, the importance of taking these actions will be discussed, if timely.

Resolution Process for Alleged Violations of the Policy on Equal Opportunity, Harassment, and Nondiscrimination Policy (Known as Process “A”)

1. Overview

University of Mount Union will act on any formal or informal notice/complaint of violation of the Equal Opportunity, Harassment, and Nondiscrimination Policy (“the Policy”) that is received by the CDO & Senior Title IX Administrator or Title IX Co-coordinator or any other Official with Authority by applying these procedures, known as “Process A.”

The procedures below apply to all allegations of harassment or discrimination on the basis of actual or perceived protected characteristic involving students, staff, administrators, or faculty members. A set of technical dismissal requirements within the Title IX regulations may apply as described below, but when a technical dismissal under the Title IX allegations is required, any remaining allegations will proceed using these same grievance procedures, clarifying which Policy provisions above are applicable. Although the effect of the Title IX regulations can be confusing, these grievance procedures apply to all Policy offenses.

If other Policy definitions are invoked, such as protected characteristic harassment or discrimination above, please see [Appendix D](#) for a description of the procedures applicable to the resolution of such offenses, known as “Process B.”

Process B can also apply to sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) when jurisdiction does not fall within Process A, as determined by the CDO & Senior Title IX Administrator Title IX Co-coordinator.

The procedures below may be used to address collateral misconduct by the Respondent arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another), **when alleged violations of the Policy are being addressed at the same time.** In such cases, the CDO & Senior Title IX Administrator or Title IX Co-coordinator may consult with the institutional officials who typically oversee such conduct (e.g., Human Resources, Student Conduct & Community Standards, Academic Affairs, etc.) to provide input as needed. All other allegations of misconduct unrelated to incidents covered by the Policy will be addressed through procedures described in the [student, employment policies for faculty, and administrative staff, and hourly staff](#) handbooks.

2. Notice/Complaint

Upon receipt of a Formal Complaint or notice to the CDO & Senior Title IX Administrator or Title IX Co-coordinator of an alleged violation of the Policy, the CDO & Senior Title IX Administrator or Title IX Co-

coordinator initiates a prompt initial assessment to determine the next steps the University of Mount Union needs to take. **CDO & Senior Title IX Administrator or Title IX Co-coordinator will contact the Complainant to offer supportive measures and determine whether the Complainant wishes to file a Formal Complaint.**

The CDO & Senior Title IX Administrator or Title IX Co-coordinator will then initiate at least one of three responses:

1. Offering supportive measures because the Complainant does not want to file a Formal Complaint
2. An Informal Resolution (upon submission of a Formal Complaint)
3. A Formal Grievance Process including an investigation and a hearing (upon submission of a Formal Complaint)

The University of Mount Union uses the Formal Grievance Process to determine whether or not the Policy has been violated. If so, the University of Mount Union will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to harassment or discrimination, their potential recurrence, and/or their effects.

3. Initial Assessment

Following receipt of notice or a Formal Complaint of an alleged violation of this Policy, the CDO & Senior Title IX Administrator or Title IX Co-coordinator⁸ engages in an initial assessment, typically within one to five business days. The steps in an initial assessment can include:

- The CDO & Senior Title IX Administrator or Title IX Co-coordinator seeks to determine if the person impacted wishes to make a Formal Complaint, and will assist them to do so, if desired.
 - If they do not wish to do so, the Title IX co-coordinator determines whether to initiate a complaint because a violence risk assessment indicates a compelling threat to health and/or safety.
- If a formal complaint is received, the CDO & Senior Title IX Administrator or Title IX Co-coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.
- The CDO & Senior Title IX Administrator or Title IX Co-coordinator reaches out to the Complainant to offer supportive measures.
- The CDO & Senior Title IX Administrator or Title IX Co-coordinator works with the Complainant to ensure they are aware of the right to have an Advisor.
- The Title IX co-coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an Informal Resolution option, or a formal investigation and grievance process.
 - If a supportive and remedial response is preferred, the Title IX co-coordinator works with the Complainant to identify their wishes, assesses the request, and implements accordingly. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.

⁸ If circumstances require, the President or CDO & Senior Title IX Administrator or Title IX Co-coordinator will designate another person to oversee the process below should an allegation be made about the CDO & Senior Title IX Administrator or Co-coordinator or the Co-coordinator be otherwise unavailable or unable to fulfill their duties.

- If an informal resolution option is preferred, the CDO & Senior Title IX Administrator or Title IX Co-coordinator assesses whether the complaint is suitable for Informal Resolution, which informal mechanism may serve the situation best or is available and may seek to determine if the Respondent is also willing to engage in Informal Resolution.
- If a Formal Grievance Process is preferred, the CDO & Senior Title IX Administrator or Title IX Co-coordinator determines if the alleged misconduct falls within the scope of 2020 Title IX regulations:
 - If it does, the CDO & Senior Title IX Administrator or Title IX Co-coordinator will initiate the formal investigation and grievance process, directing the investigation to address, based on the nature of the complaint:
 - an incident, and/or
 - a pattern of alleged misconduct, and/or
 - a culture/climate issue.
 - If alleged misconduct does not fall within the scope of the Title IX regulations, the CDO & Senior Title IX Administrator or Title IX Co-coordinator determines that the regulations do not apply (and will “dismiss” that aspect of the complaint, if any), assesses which policies may apply, which resolution process is applicable, and will refer the matter accordingly, including referring the matter for resolution under Process B if applicable. Please note that dismissing a complaint under the 2020 Title IX regulations is solely a procedural requirement under Title IX, which does not limit the University of Mount Union’s authority to address a complaint with an appropriate process and remedies.

A. Violence Risk Assessment

In some cases, the CDO & Senior Title IX Administrator or Title IX Co-coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by the CARE Team as part of the initial assessment.

A VRA can aid in ten critical and/or required determinations, including:

1. Emergency removal of a Respondent on the basis of immediate threat to an individual or the community’s physical health/safety
2. Whether the CDO & Senior Title IX Administrator or Title IX Co-coordinator should pursue/sign a Formal Complaint absent a willing/able Complainant
3. Whether the scope of the investigation should include an incident and/or pattern of misconduct and/or climate of hostility/harassment
4. To help identify potential predatory conduct
5. To help assess/identify grooming behaviors
6. Whether it is reasonable to try to resolve a complaint through Informal Resolution, and if so, what approach may be most successful
7. Whether to permit a voluntary withdrawal by the Respondent
8. Whether to impose transcript notation of communicate with a transfer institution about a Respondent
9. Assessment of appropriate sanctions/remedies (to be applied post-hearing)
10. Whether a Clery Act Timely Warning/Persona-non-grata is needed

Threat assessment is the process of evaluating the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A VRA is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

VRAs require specific training and are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, or other CARE team members. A VRA authorized by the CDO & Senior Title IX Administrator or Title IX Co-coordinator should occur in collaboration with the CARE team. Where a VRA is required by the CDO & Senior Title IX Administrator or Title IX Co-coordinator, a Respondent refusing to cooperate may result in a charge of failure to comply within the appropriate student or employee conduct process.

A VRA is not an evaluation for an involuntary behavioral health hospitalization (e.g., Ohio Revised Code Chapter 5122: Hospitalization of Mentally Ill), nor is it a psychological or mental health assessment. A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

More about the University of Mount Union's process for VRA can be found below in [Appendix C](#).

B. Dismissal (Mandatory and Discretionary)⁹

The University of Mount Union must dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

1. The conduct alleged in the Formal Complaint would not constitute Title IX Sexual Harassment as defined above, even if proved
2. The conduct did not occur in an educational program or activity controlled by the University of Mount Union (including buildings or property controlled by recognized student organizations), and/or the University of Mount Union does not have control of the Respondent
3. The conduct did not occur against a person in the United States
4. At the time of filing a Formal Complaint, a Complainant is not participating in or attempting to participate in an educational program or activity of the University of Mount Union **and based on the available information the CDO & Senior Title IX Administrator or Title IX Co-coordinator has determined that they do not need to sign a Formal Complaint on behalf of the University of Mount Union¹⁰.**

The University of Mount Union may dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing:

1. A Complainant notifies the CDO & Senior Title IX Administrator or Title IX Co-coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein
2. The Respondent is no longer enrolled in or employed by the University of Mount Union
3. Specific circumstances prevent the University of Mount Union from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein.

⁹ These dismissal requirements are mandated by the 2020 Title IX Regulations, 34 CFR §106.45.

Upon any dismissal, the University of Mount Union will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

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

4. Counterclaims

The University of Mount Union is obligated to ensure that the grievance process is not abused for retaliatory purposes, thus counterclaims made with retaliatory intent will not be permitted. The University of Mount Union permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith.

Counterclaims determined to have been reported in good faith will be processed using the Resolution Process below. Investigation of such claims may take place after resolution of the underlying initial complain, in which case a delay may occur.

Counterclaims may also be resolved through the same investigation as the underlying complaint, at the discretion of the CDO & Senior Title IX Administrator or Title IX Co-coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

5. Right to an Advisor

The parties may each have an Advisor of their choice present with them for all meetings, interviews, and hearings within the Resolution Process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.¹¹

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing Decision-Maker.

A. Who Can Serve as an Advisor

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the Resolution Process. The parties may choose Advisors from inside or outside of the University of Mount Union community.

The CDO & Senior Title IX Administrator or Title IX Co-coordinator will also offer to assign a trained Advisor for any party if the party so chooses. If the parties choose an Advisor from the pool available from the University of Mount Union, the Advisor will be trained by the University of Mount Union and be familiar with the University of Mount Union's resolution process.

If the parties choose an Advisor from outside the pool of those identified by the University of Mount Union, the Advisor may not have been trained by the University of Mount Union and may not be familiar with University of Mount Union policies and procedures.

¹¹ "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

Parties also have the right to choose not to have an Advisor in the initial stages of the Resolution Process, prior to a hearing.

B. Advisor's Role in Meetings and Interviews

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 the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

The University of Mount Union 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 of Mount Union is not obligated to provide an attorney.

C. Advisors in Hearings/University of Mount Union-Appointed Advisor

Under Title IX regulations, a form of indirect questioning is required during the hearing, but must be conducted by the parties' Advisors. The parties are not permitted to directly question each other or any witnesses. If a party does not have an Advisor for a hearing, the University of Mount Union will appoint a trained Advisor for the limited purpose of conducting any questioning of the parties and witnesses.

A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the party's Advisor will not conduct questioning, the University of Mount Union will appoint an Advisor who will do so thoroughly, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses will also be conducted by the Decision-Maker during the hearing.

D. Pre-Interview Meetings

Advisors and their advisees may request to meet with the investigator(s) conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows Advisors to clarify and understand their role and University of Mount Union's policies and procedures.

E. Advisor Violations of University of Mount Union Policy

All Advisors are subject to the same University of Mount Union policies and procedures, whether they are attorneys or not, and whether they are selected by a party or assigned by the University of Mount Union. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address University of Mount Union officials or investigators in a meeting or interview unless invited to (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or Decision-Maker(s) except during a hearing proceeding, during questioning.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the Resolution Process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any Resolution Process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by this Policy, or who refuses to comply with the University of Mount Union's established rules of decorum for the hearing, will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview/hearing will be ended, or other appropriate measures implemented, including the University of Mount Union requiring the party to use a different Advisor or providing a different

University-appointed Advisor. Subsequently, the CDO & Senior Title IX Administrator or Title IX Co-coordinator will determine how to address the Advisor's non-compliance and future role.

F. Sharing Information with the Advisor

The University of Mount Union expects that the parties may wish to have the University of Mount Union share documentation and evidence related to the allegations with their Advisors. The University of Mount Union provides a consent form that authorizes the University to share such information directly with the parties' Advisor.

The parties must either complete and submit this form to the CDO & Senior Title IX Administrator or Title IX Co-coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before University of Mount Union is able to share records with an Advisor.

If a party requests that all communication be made through their attorney Advisor, the University of Mount Union may comply with that request at the discretion of the CDO & Senior Title IX Administrator or Title IX Co-coordinator.

G. Privacy of Records Shared with Advisor

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 University of Mount Union. The University of Mount Union 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 of Mount Union's privacy expectations.

H. Expectations of an Advisor

The University of Mount Union generally expects an Advisor to adjust their schedule to allow them to attend University of Mount Union meetings/interviews/hearings when planned, but the University may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

The University of Mount Union may also make reasonable provisions to allow an Advisor who cannot be present in person to attend a meeting/interview/hearing by telephone, video conferencing, or other similar technologies as may be convenient and available.

I. Expectations of the Parties with Respect to Advisors

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least two (2) business days 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 are expected to provide timely notice to the CDO & Senior Title IX Administrator or the Title IX co-coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor should be secured. Parties are expected to inform the CDO & Senior Title IX Administrator or Title IX C-coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing.

J. Assistance in Securing an Advisor

University of Mount Union does not provides attorneys, law faculty, or law students as Advisors in the resolution process. However, the Grievance Pool members are also trained as advisors and that list can be found at mountunion.edu/campus-life/safety-and-parking/sexual-misconduct/title-ix.

For outside representation, Respondents may wish to contact organizations such as:

- Families Advocating for Campus Equality or FACE (facecampusequality.org)
- Stop Abusive and Violent Environments or SAVE (saveservices.org).

Complainants may wish to contact organizations such as:

- The Victim Rights Law Center (victimrights.org),
- The National Center for Victims of Crime (victimsofcrime.org), which maintains the Crime Victim's Bar Association.
- The Time's Up Legal Defense Fund: nwlc.org/times-up-legal-defense-fund/

6. Resolution Processes

Resolution proceedings are private. All persons present at any time during the Resolution Process are expected to maintain the privacy of the proceedings in accordance with University of Mount Union Policy. Although there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose, with the exception of information the parties agree not to disclose as part of an Informal Resolution. The University of Mount Union encourages parties to discuss any sharing of information with their Advisors before doing so.

The Formal Grievance Process is the University of Mount Union's primary resolution approach unless Informal Resolution is elected by all parties and the University of Mount Union.

A. Informal Resolution

Informal Resolution can include three different approaches:

- **Supportive Resolution.** When the CDO & Senior Title IX Administrator or Title IX Co-coordinator can resolve the matter informally by providing supportive measures (only) to remedy the situation.
- **Alternative Resolution.** When the parties agree to resolve the matter through an alternate resolution mechanism, including mediation, restorative practices, facilitated dialogue, etc., as described below, often before a formal investigation takes place (see below).
- **Accepted Responsibility.** When the Respondent accepts responsibility for violating policy, and desires to accept the recommended sanction(s) and end the Resolution (see below).

To initiate Informal Resolution, a Complainant needs to submit a Formal Complaint, as defined above. A Respondent who wishes to initiate Informal Resolution should contact the CDO & Senior Title IX Administrator or Title IX Co-coordinator. **The parties may agree, as a condition of engaging in Informal Resolution, that statements made, or evidence shared, during the Informal Resolution process will not be considered in the Formal Grievance Process unless all parties consent.**

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process. **The parties may not enter into an agreement that required the University of Mount Union to impose specific sanctions, though the parties can agree to certain restrictions or other courses of action.** For example, the parties cannot require a student be suspended, but the parties can agree that the Respondent will temporarily or permanently withdraw. The only Informal Resolution Process that can result in sanctions levied by the institution is "Accepted Responsibility." The CDO & Senior Title IX Administrator or Title IX Co-coordinator has discretion to determine if an investigation

will be paused during Informal Resolution, or if it will be limited, or will continue during the Informal Resolution process.

Prior to implementing Informal Resolution, the University of Mount Union will provide the parties with written notice of the reported misconduct and any sanctions (only in the case of Accepted Responsibility) or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the University of Mount Union.

The University of Mount Union will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution.

B. Alternate Resolution Approaches

Alternate Resolution is an informal approach, including mediation, restorative practices, facilitated dialogue, etc. by which the parties reach a mutually agreed upon resolution of a complaint. All parties must consent to the use of an Alternate Resolution approach.

The CDO & Senior Title IX Administrator or Title IX Co-coordinator may consider the following factors to assess whether Alternate Resolution is appropriate, or which form of Alternate Resolution may be most successful for the parties:

- The parties' amenability to Alternate Resolution
- Likelihood of potential resolution, considering any power dynamics between the parties
- The nature and severity of the alleged misconduct
- The parties' motivation to participate
- Civility of the parties
- Results of a violence risk assessment/ongoing risk analysis
- Disciplinary history of the Respondent
- Whether an emergency removal is needed
- Skill of the Alternate Resolution facilitator with this type of complaint
- Complaint complexity
- Emotional investment/capability of the parties
- Rationality of the parties
- Goals of the parties
- Adequate resources to invest in Alternate Resolution (time, staff, etc.)

The ultimate determination of whether Alternate Resolution is available or successful is to be made by the CDO & Senior Title IX Administrator or Title IX Co-coordinator. **CDO & Senior Title IX Administrator or Title IX Co-coordinator is authorized to facilitate a resolution that is acceptable to all parties, and/or to accept a resolution that is proposed by the parties, usually through their Advisors, including terms of confidentiality, release, and non-disparagement.**

The CDO & Senior Title IX Administrator or Title IX Co-coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., referral for formal resolution, referral to the conduct process for failure to comply). Results of complaints resolved by Alternate Resolution are not appealable.

C. Respondent Accepts Responsibility for Alleged Violations

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the Resolution Process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the CDO & Senior Title IX Administrator or Title IX Co-coordinator will determine whether Informal Resolution can be used according to the criteria above.

If Informal Resolution is applicable, the CDO & Senior Title IX Administrator or Title IX Co-coordinator will determine whether all parties and the University of Mount Union are able to agree on responsibility, restrictions, and/or remedies. If so, the CDO & Senior Title IX Administrator or Title IX Co-coordinator implements agreed-upon restrictions and remedies and determines the appropriate sanction(s) in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction(s) or responsive actions are promptly implemented in order to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

7. Formal Grievance Process Pool

The Formal Grievance Process relies on a pool of administrators (“the Pool”) to carry out the process. Members of the Pool are announced in an annual distribution of this Policy to all students, employees, prospective students, and prospective employees.

The list of Pool members and a description of the Pool can be found [here](#).

A. Pool Member Roles

Members of the Pool are trained annually, and can serve in in the following roles, at the direction of the CDO & Senior Title IX Administrator or Title IX Co-coordinator:

- To provide appropriate intake of and initial guidance pertaining to complaints
- To act as an Advisor to the parties
- To serve in a facilitation role in Informal Resolution or Alternate Resolution if appropriately trained in appropriate resolution approaches (e.g., mediation, restorative practices, facilitated dialogue)
- To perform or assist with initial assessment
- To investigate complaints
- To serve as a hearing facilitator (process administrator, no decision-making role)
- To serve as a Decision-maker regarding the complaint
- To serve as an Appeal Decision-maker

B. Pool Member Appointment

The CDO & Senior Title IX Administrator or Title IX Co-coordinators, in consultation with the President, appoints the Pool, which acts with independence and impartiality. Although members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different cases, the University of Mount Union can also designate permanent roles for individuals in the Pool, using others as substitutes or to provide greater depth of experience when necessary. This process

of role assignment may be the result of particular skills, aptitudes, or talents identified in members of the Pool that make them best suited to particular roles.

C. Pool Member Training

The Pool members receive annual training. This training includes, but is not limited to:

- The scope of the University of Mount Union's Policy on Equal Opportunity, Harassment and Nondiscrimination and Procedures
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents, and promote accountability
- Implicit bias
- Disparate treatment and impact
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, timely, and impartial manner
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all offenses
- How to apply definitions used by the University of Mount Union with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy
- How to conduct an investigation and grievance process including hearings, appeals, and Informal Resolution Processes
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias against Respondents and/or Complainants, and on the basis of sex, race, religion, and other protected characteristics
- Any technology to be used at a live hearing
- Issues of relevance of questions and evidence
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- How to determine appropriate sanctions in reference to all forms of harassment, discrimination, and/or retaliation allegations
- Recordkeeping

The materials used to train all members of the Pool are publicly posted [here](#).

D. Pool Membership

The Pool includes:

- 2 or more Decision-Makers: one representative from HR and one from Student Affairs, etc., who make decisions regarding student and employee Respondents
- 3 or more members of the Academic Affairs administration and/or faculty
- 4 or more members of the administration/staff
- 2 representatives from Human Resources
- 1 or more representative from Athletics

Pool members are usually appointed to an indefinite term and serve at the discretion of the CDO & Senior Title IX Administrator or Title IX Co-coordinators and as the individual's supervisor/department chair is amenable. Individuals who are interested in serving in the Pool are encouraged to contact the CDO & Senior Title IX Administrator or Title IX Co-coordinator.

8. Formal Grievance Process: Notice of Investigation and Allegations

The CDO & Senior Title IX Administrator or Title IX Co-coordinator will provide written Notice of the Investigation and Allegations (the "NOIA") to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent's ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who will be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- A meaningful summary of all of allegations
- The identity of the involved parties (if known)
- The precise misconduct being alleged,
- The date and location of the alleged incident(s) (if known)
- The specific policies implicated
- A description of the applicable procedures
- A statement of the potential sanctions/responsive actions that could result
- A statement that the University of Mount Union presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity during the review and comment period to inspect and review all directly related and/or relevant evidence
- A statement about the University of Mount Union's policy on retaliation
- Information about the confidentiality of the process
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor
- A statement informing the parties that the University of Mount Union's Policy prohibits knowingly making false statements, including knowingly submitting false information during the Resolution Process
- Detail on how the party may request disability accommodations during the Resolution Process
- A link to the University of Mount Union's VAWA Brochure
- The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the CDO & Senior Title IX Administrator or Title IX Co-coordinator any conflict of interest that the Investigator(s) may have
- An instruction to preserve any evidence that is directly related to the allegations

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various allegations.

Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official Mount Union records, or emailed to the parties' University of Mount Union-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

9. Resolution Timeline

The University of Mount Union will make a good faith effort to complete the resolution process within a sixty-to-ninety (60-90) business daytime period, including appeal if any, which can be extended as necessary for appropriate cause by the CDO & Senior Title IX Administrator or Title IX Co-coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

10. Appointment of Investigators

Once the decision to commence a formal investigation is made, the CDO & Senior Title IX Administrator or Title IX Co-coordinator appoints Pool members to conduct the investigation, typically using a team of two Investigators, usually within five (5) business days of determining that an investigation should proceed.

11. Ensuring Impartiality

Any individual materially involved in the administration of the Resolution Process including the CDO & Senior Title IX Administrator or Title IX Co-coordinators, Investigator(s), and Decision-maker(s) may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The CDO & Senior Title IX Administrator or Title IX Co-coordinator will vet the assigned Investigator(s) for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. At any time during the Resolution Process, the parties may raise a concern regarding bias or conflict of interest, and the CDO & Senior Title IX Administrator or Title IX Co-coordinator will determine whether the concern is reasonable and supportable. If so, another Pool member will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the CDO & Senior Title IX Administrator or Title IX Co-coordinator, concerns should be raised with non-involved Title IX Co-coordinator.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the Respondent engaged in a policy violation and evidence that supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

The University of Mount Union operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof.

12. Investigation Timeline

Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

The University of Mount Union will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

13. Investigation Process Delays and Interactions with Law Enforcement

The University of Mount Union may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include, but are not limited to: a request from law

enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions.

The University of Mount Union will communicate the anticipated duration of the delay and reason to the parties in writing and provide the parties with status updates if necessary. The University of Mount Union will promptly resume its investigation and Resolution Process as soon as feasible. During such a delay, University of Mount Union will implement supportive measures as deemed appropriate.

The University of Mount Union action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

14. Investigation Process Steps

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

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

At the discretion of the CDO & Senior Title IX Administrator or Title IX Co-coordinator, investigations can be combined when complaints implicate a pattern, collusion, and/or other shared or similar actions.

The Investigator(s) typically take(s) the following steps, if not already completed (not necessarily in this order):

- Determine the identity and contact information of the Complainant
- Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated
- Assist the CDO & Senior Title IX Administrator or Title IX Co-coordinator with conducting a prompt initial assessment to determine if the allegations indicate a potential policy violation
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for the parties and all witnesses
- Meet with the Complainant to finalize their interview/statement, if necessary
- Work with the CDO & Senior Title IX Administrator or Title IX Co-coordinator, as necessary, to prepare the initial Notice of Investigation and Allegation (NOIA). The NOIA may be amended with any additional or dismissed allegations
 - Notice should inform the parties of their right to have the assistance of an Advisor, who could be a member of the Pool or an Advisor of their choosing present for all meetings attended by the party
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings
- Make good faith efforts to notify the parties of any meeting or interview involving another party, in advance when possible
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary

- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and/or witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included
- Gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the University of Mount Union does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days. Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (e.g., Complainant, Respondent, Complainant's Advisor, Respondent's Advisor).
- Elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses
- Incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigators should document all rationales for any changes made after the review and comment period
- Share the report with the CDO & Senior Title IX Administrator or Title IX Co-coordinator and/or legal counsel for their review and feedback
- Incorporate any relevant feedback and share the final report with all parties and their Advisors through secure electronic transmission or hard copy at least ten (10) business days prior to a hearing. The parties are also provided with a file of any directly related evidence that was not included in the report.

15. Witness Role and Participation in the Investigation

Witnesses (as distinguished from the parties) who are employees of the University of Mount Union are strongly encouraged to cooperate with and participate in the University of Mount Union's investigation and Resolution Process. Student witnesses and witnesses from outside of the University of Mount Union community are encouraged to cooperate with University investigations and to share they know about a complaint.

Although in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. Skype, Zoom, Microsoft Teams, FaceTime, WebEx, or similar technologies may be used for interviews if the Investigator(s) determine that timeliness, efficiency, or other reasons dictate a need for remote interviewing. The

University of Mount Union will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigators, though not preferred. If a witness submits a written statement but does not intend to be and is not present for cross examination at a hearing, their written statement may not be used as evidence.

16. Interview Recordings

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of audio and/or video recording.

17. Evidentiary Considerations

Neither the investigation nor the hearing will does not consider: 1) incidents not directly related to the possible violation(s), unless they evidence a pattern; or 2) questions and evidence about the Complainant's sexual predisposition; or 3) questions or evidence about a Complainant's prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Within the boundaries stated above, the investigation and the hearing can consider character evidence generally, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

18. Referral for Hearing

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the CDO & Senior Title IX Administrator or Title IX Co-coordinator will refer the matter for a hearing.

The hearing cannot be less than ten (10) business days from the conclusion of the investigation –when the final investigation report is transmitted to the parties and the Decision-Maker—unless all parties and the Decision-Maker agree to an expedited timeline.

The CDO & Senior Title IX Administrator or Title IX Co-coordinator will select an appropriate Decision-Maker from the Pool and provide a copy of the investigation report and the file of directly related evidence. Allegations involving student-employees in the context of their employment will be directed to the appropriate Decision-Maker depending on the context and nature of the alleged misconduct.

19. Hearing Decision-maker Composition

The University of Mount Union will designate a single Decision-Maker. The single Decision-Maker will also Chair the hearing.

The Decision-Maker will not have had any previous involvement with the complaint. The CDO & Senior Title IX Administrator or Title IX Co-coordinator may elect to have an alternate from the Pool sit in throughout the hearing process in the event that a substitute is needed for any reason.

Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as the Decision-Maker. Those who are serving as Advisors for any party may not serve as the Decision-Maker in that matter.

The CDO & Senior Title IX Administrator or Title IX Co-coordinator may not serve as a Decision-Maker in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role. The hearing will convene at a time determined by the CDO & Senior Title IX Administrator or Title IX Co-coordinator or designee.

20. Additional Evidentiary Considerations in the Hearing

Any evidence that the Decision-Maker determines is relevant and credible may be considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Previous disciplinary action of any kind involving the Respondent may not be used unless there is an allegation of a pattern of misconduct. Such information may be considered in determining an appropriate sanction upon a determination of responsibility, as the University of Mount Union uses a progressive discipline system. This information is only considered at the sanction stage of the process and is not shared until then.

The parties may each submit a written impact statement and/or mitigation prior to the hearing for the consideration of the Decision-Maker at the sanction stage of the process when a determination of responsibility is reached.

After post-hearing deliberation, the Decision-Maker renders a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

21. Hearing Notice

No less than ten (10) business days prior to the hearing, the CDO & Senior Title IX Administrator or Title IX Co-coordinator or the Decision-Maker will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing 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.
- Description of any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-Maker and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX co-coordinator at least five (5) business days prior to the hearing.

- A list of all those who will attend the hearing, along with an invitation to object to the Decision-Maker on the basis of demonstrated bias. This must be raised with the CDO & Senior Title IX Administrator or Title IX Co-coordinator at least five (5) business days prior to the hearing.
- Information on how the hearing will be recorded and how the parties can access the recording after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Decision-Maker may reschedule the hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the CDO & Senior Title IX Administrator or Title IX Co-coordinator of they wish to conduct cross-examination and do not have an Advisor, and the University of Mount Union will appoint one. Each party must have an Advisor present if they intend to cross-examine others. There are no exceptions.
- A copy of all the materials provided to the Decision-Maker about the complaint unless they have already¹² been provided.
- An invitation to each party to submit to the Decision-Maker an impact and/or mitigation statement pre-hearing that the Decision-Maker will review during any sanction determination.
- An invitation to contact the CDO & Senior Title IX Administrator or Title IX Co-coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.
- Notification that parties cannot bring mobile phones/devices into the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) 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 of Mount Union and remain within the 60-90 business day goal for resolution. Employees who do not have 12-month contracts are still expected to participate in Resolution Proceedings that occurring during months between contracts.

In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal). A student facing charges under this Policy is not in good standing to graduate.

22. Alternative Hearing Participation Options

If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the CDO & Senior Title IX Administrator or Title IX Co-coordinator or the Decision-Maker at least five (5) business days prior to the hearing.

The CDO & Senior Title IX Administrator or Title IX Co-coordinator or the Decision-Maker can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the CDO & Senior Title IX Administrator or Title IX Co-coordinator or the Decision-

Maker know as soon as possible, preferably at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

23. Pre-Hearing Preparation

After any necessary consultation with the parties, the Decision-maker, will provide the names of persons who have been asked to participate in the hearing, all pertinent documentary evidence, and the final investigation report to the parties at least ten (10) business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigators or have proffered a written statement or answered written questions, unless all parties and the Decision-Maker assent to the witness's participation in the hearing. The same holds for any relevant evidence that is first offered at the hearing. If the parties and Decision-Maker do not assent to the admission of evidence newly offered at the hearing, the Decision-Maker may delay the hearing and/or instruct that the investigation needs to be re-opened to consider that evidence.

The parties will be given the name of the Decision-Maker at least five (5) business days in advance of the hearing. All objections to the Decision-Maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the CDO & Senior Title IX Administrator or Title IX Co-coordinator as soon as possible and no later than three (3) days prior to the hearing. Decision-Makers will only be removed if the CDO & Senior Title IX Administrator or Title IX Co-coordinator concludes that their actual or perceived bias or conflict of interest precludes an impartial hearing of the complaint.

The CDO & Senior Title IX Administrator or Title IX Co-coordinator will give the Decision-Maker a list of the names of all parties, witnesses, and Advisors at least five (5) business days in advance of the hearing. Any Decision-Maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a Decision-Maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the CDO & Senior Title IX Administrator or Title IX Co-coordinator as soon as possible.

During the ten (10) business day period prior to the hearing, the parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the Decision-Maker at the pre-hearing meeting or at the hearing and will be exchanged between each party by the Decision-Maker.

24. Pre-Hearing Meetings

The Decision-Maker may convene a pre-hearing meeting(s) with the parties and/or their Advisors and invite them to submit the questions or topics they (the parties and/or their Advisors) wish to ask or discuss at the hearing, so that the Decision-Maker can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking a question for the first time at the hearing or from asking for a reconsideration on a pre-hearing ruling by the Decision-maker based on any new information or testimony offered at the hearing. The Decision-Maker must document and share with each party their rationale for any exclusion or inclusion at a pre-hearing meeting.

The Decision-Maker, **only** with full agreement of the parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigators in the investigation report or during the hearing.

At each pre-hearing meeting with a party and/or their Advisor, the Decision-Maker will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigators may be argued to be relevant. The Decision-Maker may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The Decision-Maker may consult with legal counsel and/or the CDO & Senior Title IX Administrator or Title IX Co-coordinator, or ask either or both to attend pre-hearing meetings.

The pre-hearing meeting(s) will not be recorded.

25. Hearing Procedures

At the hearing, the Decision-Maker has the authority to hear and make determinations on all allegations of discrimination, harassment, and/or retaliation and may also hear and make determinations on any additional alleged policy violations that occurred in concert with the discrimination, harassment, and/or retaliation, even though those collateral allegations may not specifically fall within the Policy on Equal Opportunity, Harassment, and Nondiscrimination.

Participants at the hearing will include the Decision-Maker, the Investigator(s) who conducted the investigation, the parties, Advisors to the parties, any called witnesses, a hearing facilitator if needed, and anyone providing authorized accommodations or assistive services. The CDO & Senior Title IX Administrator or Title IX Co-coordinator may attend at the request of the Decision-Maker.

The Decision-Maker will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Decision-Maker will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Decision-Maker and the parties and the witnesses will then be excused. The Investigator(s) may remain present for the duration of the hearing.

26. Joint Hearings

In hearings involving more than one Respondent and/or involving more than one Complainant who has accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the CDO & Senior Title IX Administrator or Title IX Co-coordinator may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent and/or for each complaint with respect to each alleged policy violation.

27. The Order of the Hearing – Introductions and Explanation of Procedure

The Decision-Maker explains the procedures and introduces the participants. This may include a final opportunity for challenge or recusal of the Decision-Maker on the basis of bias or conflict of interest. The Decision-maker will rule on any such challenge unless the Decision-maker is the individual who is the subject of the challenge, in which case the CDO & Senior Title IX Administrator or Title IX Co-coordinator will review and decide any challenge of the Decision-Maker.

The Decision-Maker and/or hearing facilitator then conducts the hearing according to the hearing script. At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the

parties, and other administrative elements of the hearing process are managed by a non-voting hearing facilitator appointed by the Title IX co-coordinator. The Title IX co-coordinator may serve in this position.

The hearing facilitator may attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.

28. Investigator Presents the Final Investigation Report

The Investigators will then present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Decision-Maker and the parties (through their Advisors). The Investigator(s) may be present during the entire hearing process, but not during deliberations.

Neither the parties nor the Decision-Maker should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and Advisors and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Decision-Maker will disregard it.

29. Testimony and Questioning

Once the Investigator(s) present their report and respond to questions, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Decision-Maker. The hearing will facilitate questioning of parties and witnesses by the Decision-maker and then by the parties through their Advisors.

All questions are subject to a relevance determination by the Decision-Maker. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Decision-Maker upon request if agreed to by all parties and the Decision-Maker), the proceeding will pause to allow the Decision-Maker to consider it (and state it if it has not been stated aloud), and the Decision-Maker will determine whether the question will be permitted, disallowed, or rephrased.

The Decision-Maker may invite explanations or persuasive statements regarding relevance with the Advisors, if the Decision-Maker so chooses. The Decision-Maker will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Decision-Maker will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Decision-Maker will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Decision-Maker has final say on all questions and determinations of relevance. The Decision-Maker may consult with legal counsel on any questions of admissibility. The Decision-Maker may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisors on relevance once the Decision-Maker has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an Investigator or Decision-Maker at the hearing, the Decision-Maker may elect to address those issues, consult with legal counsel, and/or refer them to the CDO & Senior Title IX Administrator or Title IX Co-coordinator, and/or preserve them for appeal. If bias is not in issue at the hearing, the Decision-Maker should not permit irrelevant questions that probe for bias.

30. Refusal to Submit to Questioning; Inferences

Any party or witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the meeting, or because they attend but refuse to participate in some or all of the questioning. The Decision-Maker can only rely on whatever relevant evidence is available through the investigation and hearing in making the ultimate determination of responsibility. The Decision-Maker may not draw any inference solely from a party's or witness's absence from the hearing or refusal to submit to cross-examination or answer other questions.

31. Hearing Recordings

Hearings (but not deliberations) are recorded by the University of Mount Union 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 Decision-Maker, the parties, their Advisors, and appropriate administrators of the University of Mount Union will be permitted to review the recording in a controlled environment as determined by the CDO & Senior Title IX Administrator or Title IX Co-coordinator. No person will be given or be allowed to make a copy of the recording without permission of the CDO & Senior Title IX Administrator or Title IX Co-coordinator.

32. Deliberation, Decision-making, and Standard of Proof

The Decision-Maker will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. The preponderance of the evidence standard of proof is used. The hearing facilitator may be invited to attend the deliberation by the Decision-Maker, but is there only to facilitate procedurally, not to address the substance of the allegations.

When there is a finding of responsibility on one or more of the allegations, the Decision-Maker may then consider the previously submitted party impact and/or mitigation statements in determining appropriate sanction(s).

The Decision-Maker will ensure that each of the parties has an opportunity to review any impact and/or mitigation statement submitted once they are submitted.

The Decision-Maker will also review the statements and any pertinent conduct history provided by the hearing facilitator and will recommend the appropriate sanction(s) in consultation with other appropriate administrators, as required.

The Decision-Maker will then prepare a written statement detailing all findings and final determinations, the rationale(s) explaining the decision(s), the evidence used in support of the determination(s), the evidence not relied upon in the determination(s), any credibility assessments, and any sanction(s) and rationale(s) explaining the sanction(s) and will deliver the statement to the CDO & Senior Title IX Administrator or Title IX Co-coordinator.

This statement is typically three to five (3-5) pages in length and must be submitted to the CDO & Senior Title IX Administrator or Title IX Co-coordinator within two (2) business days of the end of deliberations, unless the CDO & Senior Title IX Administrator or Title IX Co-coordinator grants an extension. If an extension is granted, the CDO & Senior Title IX Administrator or Title IX Co-coordinator will notify the parties.

33. Notice of Outcome

Using the deliberation statement, the CDO & Senior Title IX Administrator or Title IX Co-coordinator will work with the Decision-Maker to prepare a Notice of Outcome letter. The Notice of Outcome may then be reviewed by legal counsel. The CDO & Senior Title IX Administrator or Title IX Co-coordinator will then share the letter, which includes the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within five (5) business days of receiving the Decision-Maker's deliberation statement.

The Notice of Outcome will then be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official University of Mount Union records, or emailed to the parties' University of Mount Union-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will articulate the specific alleged policy violation(s), including the relevant policy section(s), and will contain a description of the procedural steps taken by the University of Mount Union from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent the University of Mount Union is permitted to share such information under state or federal law; any sanction(s) issued which the University of Mount Union is permitted to share according to state or federal law; and whether remedies will be provided to the Complainant to ensure access to the University of Mount Union's educational or employment program or activity.

The Notice of Outcome will also include information on when the results are considered final by the University of Mount Union, will note any changes to the outcomes and/or sanction that occur prior to finalization, and the relevant procedures and bases appeal.

34. Rights of the Parties ([see Appendix B](#))

35. Sanctions

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- 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 Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-Maker

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this Policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

If it is later determined that a party or witness intentionally provided false or misleading information, that action could be grounds for re-opening a grievance process at any time, and/or referring that information to another process for resolution.

A. Student Sanctions

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

- *Warning*: An official written notice that the student or organization 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.
- *Community Service Requirements*: For a student or organization to complete a specific supervised university and/or community service.
- *Loss of Privileges*: The student or organization will be denied specified privileges for a designated period of time.
- *Educational Sanctions*: This includes, but is not limited to, required activities such as 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 from the director of residence life 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 all 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.
- *Degree revocation or Withholding*: the termination of a student's degree based on a violation that the University becomes aware of after a student graduates or the withholding of a degree due to a violation that occurs prior to graduation as the conduct process proceeds and/or until sanctions are completed.
- *Organizational Sanctions*: Deactivation, loss of recognition, loss of some or all privileges (including University of Mount Union registration) for a specified period of time.
- *Other Sanctions*: Additional or alternate sanctions may be created and designed as deemed appropriate to the offense with the approval of the Title IX Co-coordinator or designee.

B. Employee Sanctions/Responsive Actions/Corrective Actions

Responsive actions for an employee who has engaged in harassment, discrimination, and/or retaliation include:

- *Warning – verbal or written*
- *Performance improvement plan/management process*
- *Enhanced supervision, observation, or review*
- *Required counseling*
- *Required training or education*
- *Probation*
- *Denial of pay increase/pay grade*
- *Loss of oversight or supervisory responsibility*
- *Demotion*
- *Transfer*
- *Reassignment*
- *Delay of (or referral for delay of) tenure track progress*
- *Assignment to new supervisor*
- *Restriction of stipends, research, and/or professional development resources*
- *Suspension/administrative leave with pay*
- *Suspension/administrative leave without pay*
- *Termination*

- *Other Actions:* In addition to or in place of the above sanctions/responsive actions, the University of Mount Union may assign any other responsive actions as deemed appropriate.

36. Withdrawal or Resignation Before Complaint Resolution

A. Students

If a student has an allegation pending for violation of the Policy on Equal Opportunity, Harassment, and Nondiscrimination, the University of Mount Union may place a hold on a student's ability to graduate and/or to receive an official transcript/diploma.

Should a Respondent decide to not participate in the Resolution Process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from the University of Mount Union, the Resolution Process typically ends with dismissal, as the University of Mount Union has lost primary disciplinary jurisdiction over the withdrawn student.

However, the University of Mount Union may continue the Resolution Process when, at the discretion of the CDO & Senior Title IX Administrator or Title IX Co-coordinator, doing so may be necessary to address safety and/or remedy ongoing effects of the alleged harassment, discrimination, and/or retaliation. The student who withdraws or leaves while the process is pending may not return to the University of Mount Union in any capacity. Admissions and Human Resources will be notified accordingly and a hold will be placed on their ability to be readmitted. They may also be barred from University of Mount Union property and/or events.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely and, if found in violation, that student is not permitted to return to University of Mount Union unless and until all sanctions, if any, have been satisfied.

B. Employees

Should an employee Respondent resign with unresolved allegations pending, the Resolution Process typically ends with dismissal, as the University of Mount Union has lost primary disciplinary jurisdiction over the resigned employee.

However, the University of Mount Union will continue the Resolution Process when, at the discretion of the CDO & Senior Title IX Administrator or Title IX Co-coordination, doing so may be necessary to address and/or remedy ongoing effects of the alleged harassment, discrimination, and/or retaliation.

The employee who resigns with unresolved allegations pending is not eligible for academic admission or rehire with the University of Mount Union, and the records retained by the CDO & Senior Title IX Administrator or Title IX co-coordinator will reflect that status.

All University of Mount Union responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

37. Appeals

Any party may submit a written request for appeal ("Request for Appeal") to the CDO & Senior Title IX Administrator or Title IX Co-coordinator, within five (5) days of the delivery of the Notice of Outcome.

A single Appeal Decision-Maker will Chair the appeal. No Appeal Decision-Maker will have been previously involved in the Resolution Process for the complaint, including any dismissal appeal that may have been heard earlier in the process.

The Request for Appeal will be forwarded to an Appeal Decision-Maker (who will not hear the Appeal) for consideration to determine if the request meets the grounds for appeal (a Review for Standing).

This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

A. Grounds for Appeal

Appeals are limited to the following grounds:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
3. The CDO & Senior Title IX Administrator or Title IX Co-coordinator, Investigator(s), or Decision-Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Appeal Decision-Maker and the parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, that request will be denied by the Appeal Decision-Maker and the parties and their Advisors, will be notified in writing of the denial and the rationale.

If any of the grounds for the Request for Appeal meet the grounds in this Policy, then the Appeal Decision-maker will notify all parties and their Advisors, the CDO & Senior Title IX Administrator or Title IX Co-coordinator

All other parties and their Advisors, the CDO & Senior Title IX Administrator or Title IX Co-coordinator, and, when appropriate, the Investigator(s) and/or the original Decision-Maker will be mailed, emailed, and/or provided a hard copy of the Request for Appeal with the approved grounds and then be given five (5) business days to submit a response to the portion of the appeal that was approved and involves them. All responses, if any, will be forwarded by the Appeal Decision-Maker to all parties for review and comment.

The non-appealing party (if any) may also choose appeal at this time. If so, that will be reviewed to determine if it meets the grounds in this Policy by the Appeal Decision-Maker and will either be denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the CDO & Senior Title IX Administrator or Title IX Co-coordinator, and the Investigator(s) and/or original Decision-Maker, as necessary, who will submit their responses, if any, in five (5) business days, which will be circulated for review and comment by all parties.

Neither party may submit any new requests for appeal after this time period. The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved grounds for appeal, and the subsequent responses and the Appeal Decision-maker will render a

decision within no more than seven (7) business days, barring exigent circumstances. All decisions apply the preponderance of the evidence standard.

A Notice of Appeal Outcome will be sent to all parties simultaneously. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanction(s) that may result which the University of Mount Union is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the University of Mount Union is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' University of Mount Union-issued email. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

B. Sanctions Status During the Appeal

Any sanctions imposed as a result of the hearing are stayed (i.e. not implemented) during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

If any of the sanctions are to be implemented immediately post-hearing, but pre-appeal, then emergency removal procedures (detailed above) for a show cause meeting on the justification for doing so must be permitted within 48 hours of implementation.

If the original sanctions include separation in any form, the University of Mount Union may still place holds on official transcripts, diplomas, graduations, and course registration, etc. pending the outcome of an appeal. **The Respondent may request a stay of these holds from the CDO & Senior Title IX Administrator or Title IX Co-coordinator within two (2) business days of the notice of the sanctions. The request will be evaluated by the CDO & Senior Title IX Administrator or Title IX Co-coordinator or designee, whose determination is final.**

C. Appeal Considerations

- Decisions on appeal are to be deferential to the original determination, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for an Appeal Decision-maker to substitute their judgment for that of the original Decision-Maker merely because they disagree with the finding and/or sanction(s).
- The Appeal Decision-Maker may consult with the CDO & Senior Title IX Administrator or Title IX Co-coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- Appeals granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Decision-Maker for reconsideration.
- 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). When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new finding or sanction, that finding or sanction can be appealed one final time on the grounds

listed above and in accordance with these procedures.

- In rare cases where an error cannot be cured by the original Investigator(s) and/or Decision-Maker, or the CDO & Senior Title IX Administrator or Title IX Co-Coordinator (as in cases of bias), the Appeal decision-maker may order a new investigation and/or a new hearing with new Pool members serving in the Investigator and Decision-maker roles.
- The results of a remand to a Decision-Maker cannot be appealed. The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- In cases in which the appeal results in reinstatement to the University of Mount Union or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

38. Long-Term Remedies/Other Actions

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the CDO & Senior Title IX Administrator or Title IX Co-coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the harassment, discrimination, and/or retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation assistance
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the CDO & Senior Title IX Administrator or Title IX Co-coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the CDO & Senior Title IX Administrator or Title IX Co-coordinator will address any remedies by the University of Mount Union owes the Respondent to ensure no effective denial of educational access.

The University of Mount Union will maintain the confidentiality of any long-term remedies/actions/measures, provided confidentiality does not impair the University of Mount Union's ability to provide these services.

39. Failure to Comply with Sanctions and/or Responsive Actions

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-Maker (including the Appeal Decision-Maker).

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or

termination from the University of Mount Union. Supervisors are expected to enforce completion of the sanctions/responsive actions for their employees.

A suspension will only be lifted when compliance is achieved to the satisfaction of the CDO & Senior Title IX Administrator or Title IX Co-coordinator.

40. Recordkeeping

University of Mount Union will maintain for a period of at least seven years following the conclusion of the Resolution Process records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation
2. Any disciplinary sanctions imposed on the Respondent
3. Any remedies provided to the Complainant designed to restore or preserve equal access to the University of Mount Union's education program or activity
4. Any appeal and the result therefrom
5. Any Informal Resolution and the result therefrom;
6. All materials used to train Title IX co-coordinators, Investigators, Decision-Makers, and any person who facilitates an Informal Resolution process. University of Mount Union will make these training materials publicly available on University of Mount Union's website
7. Any actions, including any supportive measures, taken in response to a report or Formal Complaint of sexual harassment, including:
 - a. The basis for all conclusions that the response was not deliberately indifferent
 - b. Any measures designed to restore or preserve equal access to the University of Mount Union's education program or activity
 - c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances

University of Mount Union will also maintain any and all records in accordance with state and federal laws.

41. Disabilities Accommodations in the Resolution Process

The University of Mount Union is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the University of Mount Union's Resolution Process.

Anyone needing such accommodations or support should contact the director of student accessibility services or the director of human resources or designee, who will review the request and, in consultation with the person requesting the accommodation and the CDO & Senior Title IX Administrator or Title IX Co-coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

42. Revision of this Policy and Procedures

This Policy and procedures supersede any previous policy(ies) addressing harassment, sexual misconduct, discrimination, and/or retaliation under Title IX and will be reviewed and updated annually by the CDO & Senior Title IX Administrator or Title IX Co-coordinators. The University of Mount Union reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the CDO & Senior Title IX Administrator or Title IX Co-coordinators may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The CDO & Senior Title IX Administrator or Title IX Co-coordinators may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

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

This Policy and procedures are effective August 19, 2022.

Appendix A: Prohibited Conduct Examples (Title IX)

Examples of possible Title IX sexual harassment include:

- A professor offers for a student to have sex or go on a date with them in exchange for a good grade. This constitutes sexual harassment regardless of whether the student accedes to the request and irrespective of whether a good grade is promised or a bad grade is threatened.
- A student repeatedly sends graphic, sexually-oriented jokes and pictures to hundreds of other students via social media. Many don't find it funny and ask them to stop, but they do not. Because of these jokes, one student avoids the sender on campus and in the residence hall in which they both live, eventually asking to move to a different building and dropping a class they had together.
- A professor engages students in class in discussions about the students' past sexual experiences, yet the conversations are not in any way germane to the subject matter of the class. The professor inquires about explicit details and demands that students answer them, though the students are clearly uncomfortable and hesitant.
- An ex-partner widely spreads false stories about their sex life with their former partner to the clear discomfort and frustration of the former partner, turning the former partner into a social pariah on campus.
- Chris has recently transitioned from male to non-binary, but primarily expresses as a female. Since their transition, Chris has noticed that their African Studies professor, Dr. Mukembo, pays them a lot more attention. Chris is sexually attracted to Professor Mukembo and believes the attraction is mutual. Chris decides to act on the attraction. One day, Chris visits Dr. Mukembo during office hours, and after a long conversation about being non-binary, Chris kisses Dr. Mukembo. Dr. Mukembo is taken aback, stops the kiss, and tells Chris not to do that. Dr. Mukembo explains to Chris that they are not sexually or romantically interested in Chris. Chris takes it hard, crying to Dr. Mukembo about how hard it is to find someone who is interested in them now based on their identity. Dr. Mukembo feels sorry for Chris and softens the blow by telling them that no matter whether they like Chris or not, faculty-student relationships are prohibited by the university. Chris takes this as encouragement. One night, Chris goes to a gay bar some distance from campus and sees Dr. Mukembo there. Chris tries to buy Dr. Mukembo a drink and, again, tries to kiss Dr. Mukembo. Dr. Mukembo leaves the bar abruptly. The next day, Chris makes several online posts that out Dr. Mukembo as gay and raise questions about whether they are sexually involved with students. Dr. Mukembo contacts the CDO & Senior Title IX Administrator or Title IX Co-coordinator and alleges that Chris is sexually harassing him.

Examples of Stalking

- Students A and B were "friends with benefits." Student A wanted a more serious relationship, which caused student B to break it off. Student A could not let go, and pursued student B relentlessly. Student B obtained a campus no-contact order. Subsequently, Student B discovered their social media accounts were being accessed, and things were being posted and messaged as if they were from them, but they were not. Whoever accessed their account posted a picture of a penis, making it look as if Student B had sent out a picture of themselves, though it was not their penis. This caused them considerable embarrassment and social anxiety. They changed their passwords, only to have it happen again. Seeking help from the CDO & Senior Title IX Administrator or Title IX Co-coordinator, Student B met with

- the IT department, which discovered an app on their phone and a keystroke recorder on their laptop, both of which were being used to transmit their data to a third party.
- A graduate student working as an on-campus tutor received flowers and gifts delivered to their office. After learning the gifts were from a student they recently tutored, the graduate student thanked the student and stated that it was not necessary and would appreciate it if the gift deliveries stopped. The student then started leaving notes of love and gratitude on the tutor's car, both on-campus and at home. Asked again to stop, the student stated by email, "You can ask me to stop, but I'm not giving up. We are meant to be together, and I'll do anything to make you have the feelings for me that I have for you." When the tutor did not respond, the student emailed again, "You cannot escape me. I will track you to the ends of the earth. If I can't have you, no one will."

Examples of Sexual Assault:

- Amanda and Bill meet at a party. They spend the evening dancing and getting to know each other. Bill convinces Amanda to come up to his room. From 11:00 p.m. until 3:00 a.m., Bill uses every line he can think of to convince Amanda to have sex with him, but she adamantly refuses. Despite her clear communications that she is not interested in doing anything sexual with him, Bill keeps at her, questions her religious convictions, and accuses her of being "a prude." He brings up several rumors that he has heard about how she performed oral sex on a number of other guys. Finally, it seems to Bill that her resolve is weakening, and he convinces her to "jerk him off" (hand to genital contact). Amanda would have never done it but for Bill's incessant coercion.
- Jiang is a junior. Beth is a sophomore. Jiang comes to Beth's residence hall room with some mutual friends to watch a movie. Jiang and Beth, who have never met before, are attracted to each other. After the movie, everyone leaves, and Jiang and Beth are alone. They hit it off, soon become more intimate, and start to make out. Jiang verbally expresses his desire to have sex with Beth. Beth, who was abused by a babysitter at the age of five and avoids sexual relations as a result, is shocked at how quickly things are progressing. As Jiang takes her by the wrist over to the bed, lays her down, undresses, and begins to have intercourse with Beth, Beth has a severe flashback to her childhood trauma. She wants to tell Jiang to stop but cannot. Beth is stiff and unresponsive during the intercourse.
- Kevin and John are at a party. Kevin is not sure how much John has been drinking, but he is pretty sure it's a lot. After the party, he walks John to his apartment, and John comes on to Kevin, initiating sexual activity. Kevin asks John if he is really up to this, and John says yes. They remove each other's clothes, and they end up in John's bed. Suddenly, John runs for the bathroom. When he returns, his face is pale, and Kevin thinks he may have thrown up. John gets back into bed, and they begin to have sexual intercourse. Kevin is having a good time, though he can't help but notice that John seems pretty groggy and passive, and he thinks John may have even passed out briefly during the sex, but he came to again. When Kevin runs into John the next day, he thanks him for the great night. John remembers nothing and decides to make a report to the Dean.

Examples of Retaliation:

- A student-athlete alleges sexual harassment by a coach; the coach subsequently cuts the student-athlete's playing time without a legitimate justification.

- A faculty member alleges gender inequity in pay within her department; the Department Chair then revokes approval for the faculty member to attend a national conference, citing the faculty member's tendency to "ruffle feathers."
- A student from Organization A participates in a sexual harassment investigation as a witness whose testimony is damaging to the Respondent, who is also a member of Organization A; the student is subsequently removed as a member of Organization A because of their participation in the investigation.

Appendix B: Statement of Rights of the Parties

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment, discrimination, and/or retaliation made in good faith to University of Mount Union officials.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right to be informed in advance of any public release of information by the University of Mount Union regarding the allegation(s) or underlying incident(s), whenever possible.
- The right not to have any personally identifiable information released to the public by the University of Mount Union without consent provided, except to the extent permitted by law.
- The right to be treated with respect by University of Mount Union officials.
- The right to have University of Mount Union policy and these 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 of Mount Union officials from reporting sexual harassment, discrimination, and/or retaliation to both on-campus and off-campus authorities.
- The right to be informed by University of Mount Union officials of options to notify proper law enforcement authorities, including local police, and the option(s) to be assisted by University of Mount Union authorities in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report, as well, except as required by Ohio law.
- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by University of Mount Union Campus Safety and Security and/or other University of Mount Union officials.
- The right to be informed of available supportive measures, such as counseling; advocacy; health care; student financial aid, visa, and immigration assistance; and/or other services, both on campus and in the community.
- The right to a University of Mount Union-implemented no-contact order [or a no-trespass order against a non-affiliated third party] when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- The right to be informed of available assistance in changing academic, living, and/or working situations after an alleged incident of discrimination, harassment, and/or retaliation, if such changes are reasonably available. No formal report, or investigation, either campus or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:
 - Relocating an on-campus student's housing to a different on-campus location
 - Assistance from University of Mount Union staff in completing the relocation

- Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
- Transportation assistance
- Visa/immigration assistance
- Arranging to dissolve a housing contract and a pro-rated refund
- Exam, paper, and/or assignment rescheduling or adjustment
- Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
- Transferring class sections
- Temporary withdrawal/leave of absence (may be retroactive)
- Campus safety escorts
- Alternative course completion options.
- The right to have the University of Mount Union maintain such actions for as long as necessary and for supportive measures to remain confidential, provided privacy does not impair the University of Mount Union's ability to provide the supportive measures.
- The right to receive sufficiently advanced, written notice of any University of Mount Union meeting or interview involving the other party, when possible.
- The right to ask the Investigators and Decision-Maker to identify and question relevant witnesses, including expert witnesses.
- The right to identify and have the Investigator(s), Advisors, and/or Decision-Maker questions relevant available witnesses, including expert witnesses.
- The right to provide the Investigator(s)/Decision-maker with a list of questions that, if deemed relevant by the Investigator(s)/Decision-maker, may be asked of any party or witness.
- The right to have inadmissible sexual predisposition/prior sexual history or irrelevant character evidence excluded by the Decision-maker.
- The right to know the relevant and directly related evidence obtained and to respond to that evidence.
- The right to a fair opportunity to provide the Investigators with their account of the alleged misconduct and have that account be on the record.
- The right to receive a copy of all relevant and directly related evidence obtained during the investigation, subject to privacy limitations imposed by the state and federal law, and a ten (10) business day period to review and comment on the evidence.
- The right to receive a copy of the final investigation report, including all factual, policy, and/or credibility analyses performed, and to have at least ten (10) business days to review and comment on the report prior to the hearing.
- The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- The right to regular updates on the status of the investigation and/or resolution.
- The right to have reports of alleged Policy violations addressed by Investigators, CDO & Senior Title IX Administrator or Title IX Co-coordinators, and Decision-Makers who have received at least eight hours of relevant annual training.
- The right to preservation of confidentiality/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 of Mount Union representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.

- The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the Resolution Process.
- The right to the use of the appropriate standard of evidence, preponderance of the evidence to make a Finding and Final Determination after an objective evaluation of all relevant evidence.
- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any hearing.
- The right to have an impact and/or mitigation statement considered by the Decision-Maker following a determination of responsibility for any allegation, but prior to sanctioning.
- The right to be promptly informed of the finding(s) and sanction(s) (if any) of the Resolution Process and a detailed rationale of the decision (including an explanation of how credibility was assessed), in a written Notice of Outcome letter delivered simultaneously (without undue delay) to the parties.
- The right to be informed in writing of when a decision by the University of Mount Union is considered final and any changes to the Final Determination or sanction(s) that occur post Notification of Outcome.
- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the Resolution Process, and the procedures for doing so in accordance with the standards for appeal established by the University of Mount Union.
- The right to a fundamentally fair resolution as defined in these procedures.

Appendix C: Violence Risk Assessment (VRA)

Threat assessment is the process of assessing the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A **Violence Risk Assessment (VRA)** is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

The implementation of VRAs require specific training and are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, and/or CARE team members.

A VRA occurs in collaboration with the CARE Team, and must be understood as an on-going process, rather than a singular evaluation or meeting. A VRA is not an evaluation for an involuntary behavioral health hospitalization (e.g., Ohio Revised Code Chapter 5122: Hospitalization of Mentally Ill), nor is it a psychological or mental health assessment.

A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

When conducting a VRA, the assessor(s) use an evidence-based process consisting of:

1. an appraisal of **risk factors** that escalate the potential for violence;
2. a determination of **stabilizing influences** that reduce the risk of violence;
3. a contextual **analysis of violence risk** by considering environmental circumstances, hopelessness, and suicidality; catalyst events; nature and actionability of threat; fixation and focus on target; grievance collection; and action and time imperative for violence; and
4. the application of **intervention and management** approaches to reduce the risk of violence.

To assess an individual's level of violence risk, the CDO & Senior Title IX Administrator or Title IX Co-coordinator will initiate the violence risk assessment process through the CARE Team. The CARE Team will assign a trained individual(s) to perform the assessment, according to the specific nature of the Title IX case.

The assessor(s) will follow the process for conducting a violence risk assessment in accordance with their professional guidelines and will rely on a consistent, research-based, reliable system that allows for the evaluation of the risk levels.

Some examples of formalized approaches to the VRA process include: The NaBITA Risk Rubric,¹³ The Structured Interview for Violence Risk Assessment (SIVRA-35),¹⁴ The Extremist Risk Intervention Scale

¹³ nabita.org/tools

¹⁴ nabita.org/resources/assessment-tools/sivra-35/

(ERIS),¹⁵ Looking Glass,¹⁶ Workplace Assessment of Violence Risk (WAVR-21),¹⁷ Historical Clinical Risk Management (HCR-20),¹⁸ and MOSAIC.¹⁹

The VRA is conducted independently from the Title IX process, informed by it, but free from outcome pressure. The individual(s) conducting the assessment will be trained to mitigate any bias and provide the analysis and findings in a fair and equitable manner.

The CARE Team conducts a VRA process and makes a recommendation to the CDO & Senior Title IX Administrator or Title IX Co-coordinator as to whether the VRA indicates there is a substantial, compelling, and/or immediate risk to health and/or safety of an individual or the community.

¹⁵ nabita.org/resources/assessment-tools/eris/

¹⁶ nabita.org/looking-glass

¹⁷ wavr21.com

¹⁸ hcr-20.com

¹⁹ mosaicmethod.com

Appendix D: Process B

- Process B is applicable when the Title IX co-coordinator determines Process A is inapplicable, or offenses subject to Process A have been dismissed.
- If Process A is applicable, Process A must be applied in lieu of Process B.
- The University of Mount Union can substitute any alternative process instead of Process B, if desired.

Resolution Process for Alleged Violations of the Policy on Equal Opportunity, Harassment, and Nondiscrimination

The University of Mount Union will act on any formal or informal allegation or notice of violation of the Policy on Equal Opportunity, Harassment and Nondiscrimination that is received by the CDO & Senior Title IX Administrator or Title IX Co-coordinator²⁰ or a member of the administration, faculty, or other employee, with the exception of confidential resources, as articulated in the Policy above.

The procedures described below apply to all allegations of harassment, discrimination and/or retaliation on the basis of protected characteristic involving students, staff, faculty members, or third parties.

These procedures may also be used to address collateral misconduct arising from the investigation of or occurring in conjunction with harassing, discriminatory and/or retaliatory conduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by this policy will be addressed through the procedures elaborated in the respective [student, employment policies for faculty, and administrative staff, and hourly staff](#) handbooks.

1. Initial Assessment

Following intake, receipt of notice, or a complaint of an alleged violation of the University of Mount Union's nondiscrimination Policy, the CDO & Senior Title IX Administrator or Title IX Co-coordinator²¹ engages in an initial assessment, which is typically one to five (1-5) business days in duration. The steps in an initial assessment can include:

- The CDO & Senior Title IX Administrator or Title IX Co-coordinator reaches out to the Complainant to offer supportive measures.
- The CDO & Senior Title IX Administrator or Title IX Co-coordinator works with the Complainant to ensure they have an Advisor.
- The CDO & Senior Title IX Administrator or Title IX co-coordinator works with the Complainant to determine which of the three options to pursue: a Supportive Response, an Informal Resolution, or an Administrative Resolution.
 - If a Supportive Response is preferred, the CDO & Senior Title IX Administrator or Title IX Co-coordinator works with the Complainant to identify their wishes and then seeks to facilitate implementation. An Administrative Resolution process is not initiated, though the Complainant can elect to initiate it later, if desired.

²⁰ All references herein to a Title IX Co-coordinator also include a designee of the Title IX Co-coordinator.

²¹ If circumstances require, the President or Title IX co-coordinator will designate another person to oversee the process below should an allegation be made about the co-coordinator or the co-coordinator be otherwise unavailable or unable to fulfill their duties.

- If an Informal Resolution option is preferred, the CDO & Senior Title IX Administrator or Title IX Co-coordinator assesses whether the complaint is suitable for informal resolution, which informal mechanism may serve the situation best or is available, and may seek to determine if the Respondent is also willing to engage in Informal Resolution.
- If Administrative Resolution is preferred, the CDO & Senior Title IX Administrator or Title IX Co-coordinator initiates the investigation process and determines whether the scope of the investigation will address:
 - Incident
 - A potential pattern of misconduct
 - A culture/climate issue
- In many cases, the CDO & Senior Title IX Administrator or Title IX Co-coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by the CARE Team as part of the initial assessment. A VRA can aid in ten critical and/or required determinations, including:
 - Interim suspension of a Respondent who is a threat to health/safety
 - Whether the CDO & Senior Title IX Administrator or Title IX Co-coordinator should pursue Administrative Resolution absent a willing/able Complainant
 - Whether to put the investigation on the footing of incident and/or pattern and/or climate
 - To help identify potentially predatory conduct
 - To help assess/identify grooming behaviors
 - Whether a Complaint is amenable to Informal Resolution, and what modality may be most successful
 - Whether to permit a voluntary withdrawal by the Respondent
 - Whether to impose transcript notation or communicate with a transfer Institution about a Respondent
 - Assessment of appropriate sanctions/remedies
 - Whether a Clery Act Timely Warning or Persona-non-grata is needed.

More about the University of Mount Union's process for VRA can be found in [Appendix C](#).

Based on the initial assessment, the University of Mount Union will initiate one of these responses:

- Supportive Response – measure to help restore the Complainant's education access, as described in the Policy.
- Informal Resolution – typically used for less serious offenses and only when all parties agree to Informal Resolution, or when the Respondent is willing to accept responsibility for violating policy.
- Administrative Resolution – investigation of policy violation(s) and recommended finding, subject to a determination by the CDO & Senior Title IX Administrator or Title IX Co-coordinator or Decision-maker and the opportunity to appeal.

The investigation and the subsequent Administrative Resolution determine whether the Equal Opportunity, Harassment, and Nondiscrimination Policy has been violated. If so, the University of Mount Union will promptly implement effective remedies designed to end the discrimination, prevent recurrence, and address the effects.

The process followed considers the preference of the parties but is ultimately determined at the discretion of the CDO & Senior Title IX Administrator or the Title IX Co-coordinator. If at any point during the initial assessment or formal investigation, the CDO & Senior Title IX Administrator or Title IX Co-

coordinator determines that reasonable cause does not support the conclusion that policy has been violated, the process will end, and the parties will be notified.

The Complainant may request that the CDO & Senior Title IX Administrator or Title IX Co-coordinator review the reasonable cause determination and/or re-open the investigation. This decision lies in the sole discretion of the CDO & Senior Title IX Administrator or Title IX Co-coordinator, but the request is usually only granted in extraordinary circumstances.

2. Resolution Process Pool

The Resolution Processes relies on a pool of officials (“Pool”) for implementation. Members of the Pool are announced in an annual distribution of this Policy to all students, employees, prospective students, and prospective employees.

The list of members and a description of the Pool can be found at mountunion.edu/campus-life/safety-and-parking/sexual-misconduct/title-ix.

Members of the Pool are trained annually in all aspects of the Resolution Process and can serve in any of the following roles, at the direction of the CDO & Senior Title IX Administrator or Title IX Co-coordinator:

- To provide sensitive intake for and initial advice pertaining to the allegations
- To act as optional process Advisors to the parties
- To facilitate Informal Resolution
- To investigate allegations

Members of the Decision-Maker Pool and the Appeal Decision-Maker Pool are trained annually and serve in the roles specific to the Pool to which they are appointed.

The CDO & Senior Title IX Administrator or Title IX Co-coordinators, in consultation with the President, carefully vets Pool members for potential conflicts of interest or disqualifying biases and appoints the Pool, which acts with independence and impartiality.

Pool members receive annual training organized by the CDO & Senior Title IX Administrator or Title IX Co-coordinators, including a review of University of Mount Union’s 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.

The Pool members receive annual training, jointly and/or specific to their role. This training includes, but is not limited to:

- The scope of the University of Mount Union’s Equal Opportunity, Harassment and Nondiscrimination Policy and Procedures
- How to conduct investigations and hearings that protect the safety of Complainants and Respondents and promote accountability
- Implicit bias
- Disparate treatment
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, timely, and impartial manner

- How to conduct a sexual harassment investigation
- Trauma-informed practices, pertaining to investigations and Resolution Processes
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- Types of evidence
- Deliberation
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all offenses
- How to apply definitions used by the University of Mount Union with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy
- How to conduct an investigation and grievance process including hearings, appeals, and Informal Resolution Processes
- How to serve impartially, by avoiding prejudice of the facts at issue, conflicts of interest, and bias against Respondents and/or Complainants, and on the basis of sex, religion, and other protected characteristics
- Any technology to be used
- Issues of relevance of questions and evidence
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- How to determine appropriate sanctions in reference to all forms of harassment and discrimination allegations

The Resolution Process Pool includes

- 2 or more Decision-Makers: one representative from HR and one from Student Affairs, etc., who respectively make decisions regarding student and employee Respondents
- 3 or more members of the Academic Affairs administration and/or faculty
- 4 or more members of the administration/staff
- 2 representatives from Human Resources
- 1 or more representative from Athletics

Pool members are usually appointed by the CDO & Senior Title IX Administrator or Title IX Co-coordinators and approved by the President. Individuals who are interested in serving in the Pool are encouraged to contact the CDO & Senior Title IX Administrator or Title IX Co-coordinator.

3. Counterclaims

Counterclaims by the Respondent may be made in good faith or may instead be motivated by a retaliatory intent. The University of Mount Union is obligated to ensure that any process is not abused for retaliatory purposes.

The University of Mount Union permits the filing of counterclaims, but uses the initial assessment, described above, to assess whether the allegations are made in good faith. If they are, the allegations will be processed using the resolution procedures below, typically after resolution of the underlying allegation. Counterclaims made with retaliatory intent will not be permitted.

A delay in the processing of counterclaims is permitted, accordingly. Occasionally, allegations and counterclaims can be resolved through the same investigation, at the discretion of the CDO & Senior Title

IX Administrator or Title IX Co-coordinator. When counterclaims are not made in good faith, they will be considered retaliatory, and may constitute a violation of this Policy.

4. Advisors

A. Advisor Expectations

The University of Mount Union generally expects an Advisor to adjust their schedule to allow them to attend University of Mount Union meetings when planned, but University of Mount Union may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

The University of Mount Union may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

Parties whose Advisors are disruptive or who do not abide by University of Mount Union policies and procedures may face the loss of that Advisor and/or possible Policy violations.

Advisors are expected to consult with their advisees without disrupting University of Mount Union meetings or interviews. Advisors do not represent parties in the process; their role is only to advise.

B. Expectations of the Parties with Respect to Advisors

Each party may choose an Advisor²² who is eligible and available²³ to accompany them throughout the process. The Advisor can be anyone, including an attorney, but should not be someone who is also a witness in the process. A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout.

The parties are expected to inform the Investigator(s) of the identity of their Advisor at least two (2) business days before the date of their first meeting with the Investigator(s) (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Investigator(s) and/or the CDO & Senior Title IX Administrator or Title IX Co-coordinator if they change Advisors at any time.

Upon written request of a party, the University of Mount Union will copy the Advisor on all communications between the University of Mount Union and the party. The Advisor may be asked to sign a non-disclosure agreement (NDA) regarding private, sensitive records.

C. Assistance in Securing an Advisor

Members of the Grievance Pool have been trained as advisors, and if not otherwise involved in the Resolution Process may be utilized as advisors by the involved parties.

For outside representation, Respondents may wish to contact organizations such as:

²² This could include an attorney, advocate, or support person. Witnesses are not entitled to Advisors within the process, though they can be advised externally.

²³ "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

- Families Advocating for Campus Equality or FACE (facecampusequality.org)
- Stop Abusive and Violent Environments or SAVE (saveservices.org)

Complainants may wish to contact organizations such as:

- The Victim Rights Law Center (victimrights.org)
- The National Center for Victims of Crime (victimsofcrime.org), which maintains the Crime Victim's Bar Association
- The Time's Up Legal Defense Fund: nwlc.org/times-up-legal-defense-fund/

5. Resolution Options

Proceedings are private. All persons present at any time during the Resolution Process are expected to maintain the privacy of the proceedings in accord with University of Mount Union Policy.

While there is an expectation of privacy around what is discussed during interviews, the parties have discretion to share their own experiences with others if they so choose, but are encouraged to discuss with their Advisors first before doing so.

A. Informal Resolution

Informal Resolution is applicable when the parties voluntarily agree to resolve the matter through Alternate Resolution, mediation, restorative practices, etc., when the Respondent accepts responsibility for violating Policy, or when the CDO & Senior Title IX Administrator or Title IX Co-coordinator can resolve the matter informally by providing remedies to resolve the situation. The CDO & Senior Title IX Administrator or Title IX Administrator or Title IX Co-coordinator has the discretion to determine if an investigation will be paused during Informal Resolution, or if it will be limited, or will continue during the Informal Resolution process.

It is not necessary to pursue Informal Resolution first in order to pursue Administrative Resolution, and any party participating in Informal Resolution can stop the process at any time and request the Administrative Resolution process. Further, if an Informal Resolution fails after the resolution is finalized, Administrative Resolution may be pursued.

i. Alternative Resolution

Alternative Resolution is an informal process, such as mediation or restorative practices, by which the parties mutually agree to resolve an allegation. It may be used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the Administrative Resolution process (described below) to resolve conflicts as appropriate. The parties must consent to the use of Alternative Resolution.

The CDO & Senior Title IX Administrator or Title IX Co-coordinator determines if Alternate Resolution is appropriate, based on the willingness of the parties, the nature of the conduct at issue, and the susceptibility of the conduct to Alternative Resolution.

In an Alternative Resolution, a trained administrator or third party facilitates communication with the parties to an effective resolution, if possible. Institutionally imposed sanctions are not possible as the result of an Alternative Resolution process, though the parties may agree to accept sanctions and/or appropriate remedies.

The CDO & Senior Title IX Administrator or Title IX Co-coordinators maintains records of any resolution that is reached, and failure to abide by the resolution can result in appropriate enforcement actions.

Alternative Resolution is not typically the primary resolution mechanism used to address reports of violent behavior of any kind or in other cases of serious violations of policy, though similarly structured conversation may be made available after the Administrative Resolution process is completed should the parties and the CDO & Senior Title IX Administrator or Title IX Co-coordinator believe it could be beneficial. The results of Alternative Resolution are not appealable.

ii. Respondent Accepts Responsibility for Alleged Violations

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the Resolution Process. If the Respondent accepts responsibility, the CDO & Senior Title IX Administrator or Title IX Co-coordinator determines that the individual is in violation of University of Mount Union Policy.

The CDO & Senior Title IX Administrator or Title IX Co-coordinator then determines appropriate sanction(s) or responsive actions, which are promptly implemented in order to effectively stop the harassment, discrimination, and/or retaliation; prevent its recurrence; and remedy the effects of the conduct, both on the Complainant and the community.

If the Respondent accepts responsibility for all of the alleged policy violations and the CDO & Senior Title IX Administrator or Title IX Co-coordinator or designee has determined appropriate sanction(s) or responsive actions, to which the Respondent agrees, and which are promptly implemented, the process is over. The Complainant will be informed of this outcome.

If the Respondent accepts responsibility for some of the alleged policy violations and the CDO & Senior Title IX Administrator or Title IX Co-coordinator has determined appropriate sanction(s) or responsive actions, to which the Respondent agrees, and which are promptly implemented, for those violations, then the remaining allegations will continue to be investigated and resolved through Administrative Resolution. The parties will be informed of this outcome. The parties are still able to seek Alternative Resolution on the remaining allegations, subject to the stipulations above.

B. Administrative Resolution via an Investigation and Hearing

Administrative Resolution can be pursued at any time during the process for any behavior for which the Respondent has not accepted responsibility that would constitute conduct covered by the Equal Opportunity, Harassment, and Nondiscrimination Policy if proven. Administrative Resolution starts with a thorough, reliable, and impartial investigation.

If Administrative Resolution is initiated, the CDO & Senior Title IX Administrator or Title IX Co-coordinator will provide written notification of the investigation to the parties at an appropriate time during the investigation. Typically, notice is given (at least 48 hours) in advance of an interview. Advanced notice facilitates the parties' ability to identify and choose an Advisor, if any, to accompany them to the interview.

Notification will include a meaningful summary of the allegations, will be made in writing, and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official University of Mount Union records, or emailed to the parties' University of Mount Union-issued or designated email account.

Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The notification should include the policies allegedly violated, if known at the time. Alternatively, the policies allegedly violated can be provided at a later date, in writing, as the investigation progresses, and details become clearer.

The University of Mount Union aims to complete all investigations within a sixty (60) business day time period, which can be extended as necessary for appropriate cause by the CDO & Senior Title IX Administrator or Title IX Co-coordinator, with notice to the parties as appropriate. Investigations can take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

Once the decision is made to commence an investigation, the CDO & Senior Title IX Administrator or Title IX Co-coordinator appoints Pool members to conduct the investigation, typically using a team of two Investigators, usually within five (5) days of determining that an investigation should proceed.

The appropriate Title IX co-coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no conflicts of interest or disqualifying bias.

The parties may, at any time during the Resolution Process, raise a concern regarding bias or conflict of interest, and the CDO & Senior Title IX Administrator or Title IX Co-coordinator will determine whether the concern is reasonable and supportable. If so, another Investigator will be assigned and the impact of the bias or conflict, if any, will be remedied. If the bias or conflict relates to the CDO & Senior Title IX Administrator or Title IX Co-coordinator, concerns should be raised with the non-involved CDO & Senior Title IX Administrator or Title IX co-coordinator.

The University of Mount Union will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

The University of Mount Union may undertake a short delay in its investigation (several days to weeks, to allow evidence collection) when criminal charges based on the same behaviors that invoke the University of Mount Union's Resolution Process are being investigated by law enforcement. The University of Mount Union will promptly resume its investigation and resolution process once notified by law enforcement that the initial evidence collection process is complete.

University of Mount Union action(s) are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

Investigations involve interviews with all relevant parties and witnesses, obtaining available, relevant evidence, and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, though the investigation process, to suggest witnesses and questions, to provide evidence, and to fully review and respond to all evidence, on the record.

6. Investigation

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

- Determine the identity and contact information of the Complainant
- In coordination with campus partners (e.g., the CDO & Senior Title IX Administrator or Title IX Co-coordinator), initiate or assist with any necessary supportive measures
- Identify all policies implicated by the alleged misconduct
- Assist the CDO & Senior Title IX Administrator or Title IX Co-coordinator with conducting an initial assessment to determine if there is reasonable cause to believe the Respondent has violated policy

- If there is insufficient evidence to support reasonable cause, the process is closed with no further action
- Commence a thorough, reliable, and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all parties and witnesses
- Meet with the Complainant to finalize their statement, if necessary
- Prepare the initial Notice of Investigation and Allegation (NOIA) on the basis of the initial assessment. Notice may be one step or multiple steps, depending on how the investigation unfolds, and potential policy violations may be added or dropped as more is learned. Investigators will update the NOIA accordingly and provide it to the parties.
- Notice should inform the parties of their right to have the assistance of a Pool member as a process Advisor appointed by the University of Mount Union or other Advisor of their choosing present for all meetings attended by the advisee
- When formal notice is being given, it should 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
- Give an instruction to the parties to preserve any evidence that is directly related to the allegations
- Provide the parties and witnesses with an opportunity to review and verify the Investigator's summary notes from interviews and meetings with that specific party or witness
- Make good faith efforts to notify the parties of any meeting or interview involving another party, in advance when possible
- Interview all relevant individuals and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest questions they wish the Investigator(s) to ask of the other party and witnesses
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation
- Prior to the conclusion of the investigation, summarize for the parties the list of witnesses whose information will be used to render a finding
- Write a comprehensive investigation report fully summarizing the investigation and all evidence
- Provide the parties with a copy of the draft investigation report when it is completed, including all relevant evidence, analysis, credibility assessments, and recommended finding(s)
- Provide each party with a full and fair opportunity to respond to the report in writing within five (5) business days and incorporate that response into the report
- Investigators may choose to respond in writing in the report to the responses of the parties, and/or to share the responses between the parties for their responses, while also ensuring that they do not create a never-ending feedback loop
- Share the report with the CDO & Senior Title IX Administrator or Title IX Co-coordinator and/or legal counsel for review and feedback.
- Provide the final report to the CDO & Senior Title IX Administrator or Title IX Co-coordinator with one of two options:
 - Gather, assess, and synthesize evidence without making a finding, conclusion, determination or recommendation.
 - In the report, include whether a policy violation is more likely than not to have occurred.

7. Determination

Within two to three (2-3) business days of receiving the Investigator's recommendation, the CDO & Senior Title IX Administrator or Title IX Co-coordinator or a trained, designated Decision-maker from the Pool²⁴ reviews the report and all responses, and then makes the final determination on the basis of the preponderance of the evidence.

If the record is incomplete, the CDO & Senior Title IX Administrator or Title IX Co-coordinator or Decision-Maker may direct a re-opening of the investigation, or may direct or conduct any additional inquiry necessary, including informally meeting with the parties or any witnesses, if needed.

The recommendation of the investigation should be strongly considered but is not binding on the CDO & Senior Title IX Administrator or Title IX Co-coordinator/Decision-Maker. The CDO & Senior Title IX Administrator or Title IX Co-coordinator or Decision-Maker may invite and consider impact and/or mitigation statements from the parties if and when determining appropriate sanction(s), if any.

8. Additional Details of the Investigation Process

A. Witness Responsibilities

Witnesses (as distinguished from the parties) who are faculty or staff of the University of Mount Union are expected to cooperate with and participate in the University of Mount Union's investigation and Resolution Process. Failure of a witness to cooperate with and/or participate in the investigation or Resolution Process constitutes a violation of Policy and may be subject to discipline.

B. Remote Processes

Parties and witnesses may be interviewed remotely by phone, video conferencing, or similar technologies if the Investigator(s) and/or Decision-Maker determine that timeliness, efficiency, or other causes dictate a need for remote interviewing. Witnesses may also provide written statements in lieu of interviews, or respond to questions in writing, if deemed appropriate by the Investigator(s), though this approach is not ideal. When remote technologies are used, the University of Mount Union makes reasonable efforts to ensure privacy, and that any technology does not work to the detriment of any party or subject them to unfairness.

C. Recording

No unauthorized audio or video recording of any kind is permitted during the Resolution Process including investigation interviews. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of audio and/or video recording.

D. Evidence

Any evidence that is relevant and credible may be considered, including an individual's prior misconduct history as well as evidence indicating a pattern of misconduct, subject to the limitation in (E) below. The process should exclude irrelevant or immaterial evidence and may disregard evidence lacking in credibility or that is improperly prejudicial.

²⁴ When the Title IX co-coordinator is the Investigator or has been heavily involved in the process prior to determination, a Decision-maker should be designated from the Decision-Maker Pool to ensure there is no conflict of interest.

E. Prior Sexual History/Patterns

Unless the CDO & Senior Title IX Administrator or Title IX Co-coordinator determines it is appropriate, the investigation and the finding do not consider: (1) incidents not directly related to the possible violation(s), unless they evidence a pattern; (2) the irrelevant sexual history of the parties (though there may be a limited exception made with regard to the sexual history between the parties); (3) irrelevant character evidence.

F. Previous Allegations/Violations

While previous conduct violations by the Respondent are not generally admissible as information supporting the current allegation, the Investigator(s) may supply the CDO & Senior Title IX Administrator or Title IX Co-coordinator with information about previous good faith allegations and/or findings, when that information suggests potential pattern and/or predatory conduct.

Previous disciplinary action of any kind involving the Respondent may be considered in determining the appropriate sanctions, as the University of Mount Union uses a progressive discipline system.

G. Character Witnesses

Character witnesses or evidence may be offered. The investigation and hearing will determine if the character evidence is relevant. If so, it may be considered. If not, it will be excluded.

H. Notification of Outcome

If the Respondent admits to the violation(s), or is found in violation, the CDO & Senior Title IX Administrator or Title IX Co-coordinator or designee, in consultation with other administrators as appropriate, determines sanction(s) and/or responsive actions, which are promptly implemented in order to effectively to stop the harassment, discrimination, and/or retaliation; prevent its recurrence; and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

The CDO & Senior Title IX Administrator or Title IX Co-coordinator informs the parties of the determination within two to three (2-3) business days of the resolution, ideally simultaneously, but without significant time delay between notifications. Notifications are made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official University of Mount Union records; or emailed to the parties' University of Mount Union -issued or designated email account. Once mailed, emailed, and/or received in-person, notice is presumptively delivered.

The Notification of Outcome specifies the finding for each alleged policy violation, any sanction(s) that may result which the University of Mount Union is permitted to share pursuant to state or federal law, and the rationale supporting the essential findings to the extent the University of Mount Union is permitted to share under state or federal law.

The notice will detail when the determination is considered final and will detail any changes that are made prior to finalization.

Unless based on an acceptance of violation by the Respondent, the determination may be appealed by either party. The Notification of Outcome also includes the grounds on which the parties may appeal and the steps the parties may take to request an appeal of the findings. More information about the appeal procedures can be found below.

9. Sanctions

Factors considered when determining any sanction(s)/responsive action(s) may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation
- An individual's disciplinary history
- Previous allegations or allegations involving similar conduct
- 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 Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the CDO & Senior Title IX Administrator or Title IX Coordinator

The sanction(s) will be implemented as soon as is feasible. The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed by outside authorities.

A. Student Sanctions

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

- *Warning*: An official written notice that the student or organization 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.
- *Community Service Requirements*: For a student or organization to complete a specific supervised university and/or community service.
- *Loss of Privileges*: The student or organization will be denied specified privileges for a designated period of time.
- *Educational Sanctions*: This includes, but is not limited to, required activities such as 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 from the director of residence life 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 all 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.
- *Degree revocation or Withholding*: the termination of a student's degree based on a violation that the University becomes aware of after a student graduates or the withholding of a degree due to a violation that occurs prior to graduation as the conduct process proceeds and/or until sanctions are completed.
- *Organizational Sanctions*: Deactivation, loss of recognition, loss of some or all privileges (including University of Mount Union registration) for a specified period of time.
- *Other Sanctions*: Additional or alternate sanctions may be created and designed as deemed appropriate to the offense with the approval of the Title IX Co-coordinator or designee.

B. Employee Sanctions/Responsive/Corrective Actions

Responsive actions for an employee who has engaged in harassment, discrimination, and/or retaliation include:

- *Warning – verbal or written*
- *Performance improvement plan/management process*
- *Required counseling*
- *Required training or education*
- *Probation*

- *Denial of pay increase*
- *Loss of oversight or supervisory responsibility*
- *Demotion*
- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- *Other Actions:* In addition to or in place of the above sanctions/responsive actions, the University of Mount Union may assign any other responsive action as deemed appropriate.

10. Withdrawal or Resignation While Charges are Pending

A. Students

The University of Mount Union does not permit a student to withdraw if that student has an allegation pending for violation of the Equal Opportunity, Harassment, and Nondiscrimination Policy. The University of Mount Union may place a hold, bar access to an official transcript, and/or prohibit graduation as necessary to permit the Resolution Process to be completed.

B. Employees

Should an employee resign with unresolved allegations pending, the records of the CDO & Senior Title IX Administrator or Title IX Co-coordinator will reflect that status, and any University of Mount Union responses to future inquiries regarding employment references for that individual will include the former employee's unresolved status and whether the employee is eligible for rehire.

11. Appeals

All requests for appeal consideration must be submitted in writing to the CDO & Senior Title IX Administrator or Title IX Co-coordinator within five (5) business days of the delivery of the written finding of the CDO & Senior Title IX Administrator or Title IX Co-coordinator or Decision-Maker.

An Appeal Decision-Maker chosen from the Pool will be designated by the Title IX co-coordinator from those who have not previously been involved in the process. Any party may appeal, but appeals are limited to the following grounds:

- A procedural error or omission occurred that significantly impacted the outcome (e.g., substantiated bias, material deviation from established procedures, failure to correctly apply the evidentiary standard).
- To consider new evidence, unknown or unavailable during the investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included in the appeal.
- The sanctions imposed fall outside the range of sanctions the University of Mount Union has designated for the violation(s) and the cumulative disciplinary record of the Respondent.

When any party requests an appeal, the CDO & Senior Title IX Administrator or Title IX Co-coordinator will share the appeal request with all other parties or other appropriate persons such as the Investigators, who may file a response within three (3) business days. Another party may also bring their own appeal on separate grounds.

If new grounds are raised, the original appealing party will be permitted to submit a written response to these new grounds within five (5) business days. These responses or appeal requests will be shared with each party. The Appeal Decision-Maker will review the appeal request(s) within five (5) business days of

completing the pre-appeal exchange of materials. If grounds are not sufficient for an appeal, or the appeal is not timely, the Appeal Decision-Maker dismisses the appeal.

When the Appeal Decision-Maker finds that at least one of the grounds is met by at least one party, additional principles governing the review of appeals include the following:

- Decisions by the Appeal Decision-Maker are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is compelling justification to do so.
- Appeals are not intended to be full re-hearings (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the investigation and pertinent documentation regarding the grounds for appeal.
- An appeal is not an opportunity for the Appeal Decision-Maker to substitute their judgment for that of the original Investigator(s) or CDO & Senior Title IX Administrator or Title IX Co-coordinator/Decision-Maker merely because they disagree with the finding and/or sanction(s).
- Appeals granted based on new evidence should normally be remanded to the Investigator(s) for reconsideration. Other appeals should be remanded at the discretion of the Appeal Decision-Maker.
- Sanctions imposed as the result of Administrative Resolution are implemented immediately unless the Title IX co-coordinator 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.
- All parties will be informed in writing within five (5) business days of the outcome of the appeal without significant time delay between notifications, and in accordance with the standards for Notice of Outcome as defined above.
- Once an appeal is decided, the outcome is final; further appeals are not permitted, even if a decision or sanction is changed on remand. When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new finding or sanction, that finding or sanction can be appealed one final time on the grounds listed above, and in accordance with these procedures.
- In rare cases when a procedural or substantive error cannot be cured by the original Investigator(s) and/or Decision-Maker or the CDO & Senior Title IX Administrator or Title IX Co-coordinator (as in cases of bias), the Appeal Decision-Maker may recommend a new investigation and/or Administrative Resolution process, including a new Decision Maker.
- The results of a new Administrative Resolution process can be appealed once, on any of the three applicable grounds for appeals.
- In cases in which the appeal results in Respondent's reinstatement to the University of Mount Union or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

12. Long-Term Remedies/Actions

Following the conclusion of the Resolution Process, and in addition to any sanctions implemented, the CDO & Senior Title IX Administrator or Title IX Co-coordinator may implement long-term remedies or actions with respect to the parties and/or the campus community to stop the harassment, discrimination, and/or retaliation; remedy its effects; and prevent its reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification
- Provision of transportation assistance
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the CDO & Senior Title IX Administrator or Title IX Co-coordinator, long-term remedies may also be provided to the Complainant even if no policy violation is found.

When no policy violation is found, the CDO & Senior Title IX Administrator or Title IX Co-coordinator will address any remedial requirements owed by the University of Mount Union to the Respondent.

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

All Respondents are expected to comply with conduct sanctions, responsive actions, and corrective actions within the timeframe specified by the CDO & Senior Title IX Administrator or Title IX co-coordinator.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s) and/or responsive/corrective action(s), including suspension, expulsion, and/or termination from the University of Mount Union and may be noted on a student's official transcript. Supervisors are expected to enforce completion of sanctions/responsive actions for their employees.

A suspension will only be lifted when compliance is achieved to the satisfaction of the CDO & Senior Title IX Administrator or Title IX Co-coordinator.

14. Recordkeeping

In implementing this Policy, records of all allegations, investigations, resolutions, and hearings will be kept indefinitely, or as required by state or federal law or institutional policy, by the CDO & Senior Title IX Administrator or Title IX Co-coordinator in the Title IX case database.

15. Statement of the Rights of the Parties ([see Appendix B](#))

16. Disability Accommodation in the Resolution Process

The University of Mount Union is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the Resolution Process at University of Mount Union. Anyone needing such accommodations or support should contact the director of student accessibility services or the director of human resources or designee, as appropriate, who will review the request and, in consultation with the person requesting the accommodation, and the CDO & Senior Title IX Administrator or Title IX Co-coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

17. Revision

These policies and procedures will be reviewed and updated annually by the CDO & Senior Title IX Administrator or Title IX Co-coordinators. The University of Mount Union reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect and supersede previously published Student Handbooks.

The CDO & Senior Title IX Administrator or Title IX Co-coordinators may make minor modifications to these procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules.

The CDO & Senior Title IX Administrator or Title IX Co-coordinators may also vary procedures materially with notice (on the University of Mount Union website, with the appropriate effective date 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 the most recent government regulations.

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

This policy and procedure was implemented on August 19, 2022.

Based ON THE ATIXA 2022 ONE POLICY, TWO PROCEDURES MODEL
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