

**POLICY ON NON-DISCRIMINATION, HARASSMENT &
RETALIATION**

**MTSO
2020**

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Equal Opportunity, Harassment, and Nondiscrimination

As used in this document, the term “reporting party” refers to the person impacted by the alleged discrimination. The term “responding party” refers to the person who has allegedly engaged in discrimination. The term “report” and “allegation” are used interchangeably and denote information provided to the Institution regarding conduct that may have violated this policy.

Institution Policy on Nondiscrimination

MTSO adheres to all federal and state civil rights laws and regulations prohibiting discrimination in private institutions of higher education. MTSO does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of race, religion, hearing status, personal appearance, color, sex, pregnancy, political affiliation, source of income, place of business, residence, religion, creed, ethnicity, national origin (including ancestry), citizenship status, physical or mental disability (including perceived disability), age, marital status, family responsibilities, sexual orientation, gender identity, gender expression, veteran or military status, predisposing genetic characteristics, domestic violence victim status or any other protected category under applicable local, state, or federal law, including protections for those opposing discrimination or participating in any resolution process on campus, with the Equal Employment Opportunity Commission, or other human rights agencies.

This policy covers nondiscrimination in both employment and access to educational opportunities. Therefore, any member of the MTSO community who acts to deny, deprive, or limit the educational or employment or residential and/or social access, benefits, and/or opportunities of any member of the MTSO community, guest, or visitor on the basis of their actual or perceived membership in the protected classes listed above is in violation of the MTSO policy on nondiscrimination.

When brought to the attention of MTSO, any such discrimination will be promptly and fairly addressed and remedied by MTSO according to the resolution process described below.

MTSO Policy on Disability Discrimination and Accommodation

MTSO is committed to full compliance with the Americans With Disabilities Act of 1990 Title III (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 and state laws and regulations pertaining to individuals with disabilities.

Kathy Dickson has been designated as the 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 for both students and employees will be addressed using the procedures below. For details relating to disabilities accommodations in MTSO’s resolution process, see <https://www.mtso.edu/about-mtso/notice-nondiscrimination/>.

a. Students with Disabilities

MTSO is committed to providing qualified students with disabilities with reasonable accommodations and support needed to ensure equal access to the academic programs and activities of MTSO.

All accommodations are made on a case-by-case basis. A student requesting any accommodation should first contact the Director of Student Services, Dr. Monique Williams, mwilliams@mtso.edu, who coordinates services for students with disabilities. The Director of Student Services reviews documentation provided by the student and, in consultation with the student, determines which reasonable accommodations are appropriate to the student's particular needs and academic programs. An accommodation may not fundamentally alter the educational course or program of study.

b. Employees with Disabilities

Pursuant to the ADA, MTSO 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 Institution.

An employee with a disability is responsible for submitting a request for an accommodation to the Coordinator of HR and providing necessary documentation. The Coordinator of HR 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.

Rationale for Policy

MTSO is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from discrimination, harassment, and retaliation. 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 enterprise, MTSO has developed internal policies and procedures that will provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of protected class status or sexual misconduct. Additionally, this policy covers all sexual based misconduct identified under this policy.

MTSO values and upholds the equal dignity of all members of its community, and strives to balance the rights of the parties in what is often a difficult time for all those involved.

Applicable Scope

The core purpose of this policy is the prohibition of all forms of discrimination. Sometimes, discrimination involves exclusion from activities, such as admission or employment advancement. Sometimes, discrimination takes the form of harassment or, in the case of sex-based discrimination, encompasses sexual violence, stalking, sexual exploitation, or intimate partner violence. When violation of these anti-discrimination policies is alleged, the allegations are subject to resolution using MTSO's process as detailed below.

When the responding party is a member of the MTSO community, the resolution process is applicable regardless of the status of the reporting party, who may or may not be a member of the MTSO community. This community includes, but is not limited to, students,¹ student organizations, faculty, administrators, staff, guests, visitors, invitees, and others who use campus space. The procedures below may be applied to incidents, to patterns, and/or to the climate, all of which may be addressed and investigated in accordance with this policy.

Title IX Coordinator

Kathy Dickson serves as the Title IX Coordinator and ADA/504 Coordinator, who with Erin Wiggins, the Coordinator for HR as the EEO coordinator, oversee implementation of the Institution's Affirmative Action and Equal Opportunity plan, disability compliance and MTSO's policy on equal opportunity, harassment, and nondiscrimination. The Title IX and EEO Coordinators have the primary responsibility for coordinating MTSO's efforts related to investigation, resolution, and implementation of corrective measures and monitoring to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy. The Title IX Coordinator may designate other administrators to serve as Deputy Coordinators or designee for various Title IX compliance elements.

Independence and Conflict-of-Interest

The Title IX Coordinator manages the Title IX Team. The Title IX Coordinator and EEO Coordinator oversee all resolutions under this policy and act to ensure that all MTSO representatives are sufficiently trained to perform the function to which they have been assigned; to act with objectivity and impartiality; and are assessed with respect to conflicts of interest and/or potential bias. To raise any concern involving bias or conflict of interest by either the Title IX Coordinator or EEO Coordinator, contact the President, Jay Rundell, jrundell@mtso.edu, or 740-362-3121. Concerns of bias or a potential conflict of interest by any other administrator involved in the resolution process should be raised with either the Title IX Coordinator or EEO Coordinator. Reports of misconduct or discrimination committed by the Title IX Coordinator or EEO Coordinator should be reported to President Jay Rundell, jrundell@mtso.edu or 740-362-3121. Reports of misconduct or discrimination committed by any other administrator involved in the resolution process should be reported to the Title IX Coordinator or EEO Coordinator.

Administrative Contact Information

Allegations of violations of policy, or inquiries about or concerns regarding this policy and procedure, may be made internally to:

Kathy Dickson
Title IX Coordinator
Werner Hall 121
740-362-3440

¹ For the purpose of this policy, MTSO 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/or who maintains an ongoing relationship with MTSO.

kdickson@mtso.edu

Erin Wiggins
EEO Coordinator
Werner Hall

ewiggins@mtso.edu

740-362-3366

Yvonne Zimmerman
Associate Academic Dean
Deputy Title IX Coordinator
Gault Hall

yzimmerman@mtso.edu

740-362-3389

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: <http://www.ed.gov/ocr>

Cleveland Office for Civil Rights
U.S. Department of Education
1350 Euclid Avenue, Suite 325
Cleveland, OH 44115-1812.
Telephone: 216-522-4970.
FAX: 216-522-2573.
TDD: 800-877-8339.
Email: OCR.Cleveland@ed.gov.

Equal Employment Opportunity Commission (EEOC)
Contact: <http://www.eeoc.gov/contact/>

Reporting Discrimination, Harassment, Sexual Misconduct and/or Retaliation

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

- 1) Report directly to:
Kathy Dickson
Title IX Coordinator
Werner Hall 121
740-362-3440

kdickson@mtso.edu

Erin Wiggins
EEO Coordinator
Werner Hall
ewiggins@mtso.edu
740-362-3366

Yvonne Zimmerman
Associate Academic Dean
Deputy Title IX Coordinator
Gault Hall
yzimmerman@mtso.edu
740-362-3389

- 2) Report to an on-campus supervisor, who will report to the Title IX Coordinator.

All reports are acted upon promptly, and every effort is made by MTSO to preserve the privacy of reports.²

Anonymous Reporting

Reports may also be made anonymously, without identification of the reporting party. Anonymous reports will be preliminarily investigated to the extent possible, both to assess the underlying allegation(s) and to determine if remedies can be provided. However, anonymous complaints typically limit MTSO's ability to investigate, respond, and provide remedies, depending on what information is shared. Additionally, all employees of MTSO, with the exception of those who are designated as confidential resources, are mandated reporters and must promptly share all known details of a report with the Title IX Coordinator or EEO Coordinator.

² For the purpose of this policy, privacy and confidentiality have distinct meanings. **Privacy** means that information related to an allegation will be shared with a limited number of MTSO 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 institution's response to allegations 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 institution's FERPA 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 who are hired to perform that role at MTSO. MTSO has designated individuals who have the ability to have privileged communications as confidential resources. For more information about confidential resources, see page 16. When information is shared by an individual 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.

Confidentiality and mandated reporting are addressed more specifically below, page 17.

Time Limits on Reporting

There is no time limitation on reporting allegations to the Title IX Coordinator or EEO Coordinator. However, if the responding party is no longer subject to MTSO's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited. Acting on allegations significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator and EEO Coordinator, who may document allegations for future reference, offer resources and/or remedies, and/or engage in informal or formal action, as appropriate. When a significant time delay impacts the reporting of alleged misconduct, MTSO will apply the policy in place at the time of the alleged misconduct, and the procedures in place at the time the misconduct is reported.

Jurisdiction of MTSO

This policy applies to conduct that take place on the campus or on property owned or controlled by MTSO and at MTSO-sponsored events. It may also apply to off-campus and to online conduct when the Title IX Coordinator and/or EEO Coordinator determine that the conduct affects a substantial Institutional interest. Regardless of where the conduct occurred, the Institution will address all allegations to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus program or activity. A substantial Institution 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 appears that the responding party may present a danger or threat to the health or safety of self or others;
- c) Any situation that significantly impinges upon the rights, property, or achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or
- d) Any situation that is detrimental to the educational interests of MTSO.

If the responding party is unknown or is not a member of the MTSO community, the Title IX Coordinator and/or the EEO Coordinator will assist the reporting party in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local law enforcement if the individual would like to file a police report. In addition, the Institution may take other actions as appropriate to protect the reporting party against such third parties, such as barring the latter from Institution property and/or events. All vendors serving MTSO through third-party contracts are subject to the policies and procedures of their employers or to these policies and procedures to which their employer has agreed to be bound by their contracts.

When the responding party is enrolled in or works at another Institution, the Title IX Coordinator and/or the EEO Coordinator can assist the reporting party in liaising with the appropriate individual for that Institution, as it may be possible to allege violations through that Institution's policies.

Similarly, the Title IX Coordinator and/or the EEO Coordinator may be able to advocate for a student or employee reporting party who experiences discrimination in an externship, study abroad program, or other environment external to the Institution where sexual harassment policies and procedures of the facilitating organization may give recourse to the reporting party. Further, even when the responding party is not a member of the Institution's community, remedies and resources can be accessed by contacting the Title IX Coordinator and/or the EEO Coordinator.

Online Harassment and Misconduct

Any online postings or other electronic communication by student or employees, including cyber-bullying, cyber-stalking, cyber-harassment, etc., occurring completely outside of the Institution's control (e.g. not on Institution networks, websites, or between Institution email accounts) will be subject to this policy.

MTSO Policy on Discriminatory Harassment

Students, staff, and faculty are entitled to an employment and educational environment that is free of discriminatory harassment. MTSO'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 MTSO policy. When speech or conduct is protected by academic freedom, it will not be considered a violation of MTSO policy, though remedies may be offered to those impacted.

a. Discriminatory Harassment

Discriminatory harassment constitutes a form of discrimination that is prohibited by MTSO policy. Discriminatory harassment is defined as unwelcome conduct by any member or group of the community on the basis of actual or perceived membership in a class protected by policy or law. MTSO does not tolerate discriminatory harassment of any employee, student, visitor, or guest. MTSO will act to remedy all forms of discriminatory harassment when reported, whether or not the harassment rises to the level of creating a hostile environment. When discriminatory harassment rises to the level of creating a hostile environment, MTSO may also impose sanctions on the responding party through application of the resolution process, below.

A hostile environment is one that unreasonably interferes with, limits, or denies an individual's educational or employment access, benefits, or opportunities.³ This discriminatory effect results from harassing verbal, written, graphic, or physical conduct that is severe and/or persistent and/or pervasive, **and** objectively offensive.

³ This definition of hostile environment is based on Federal Register / Vol. 59, No. 47 / Thursday, March 10, 1994: Department of Education Office for Civil Rights, Racial Incidents and Harassment Against Students At Educational Institutions Investigative Guidance. The document is available at: <http://www.ed.gov/about/offices/list/ocr/docs/race394.html>.

MTSO reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature not based on a protected status. Addressing such conduct will not result in the imposition of sanctions under MTSO policy, but may be addressed through respectful conversation, remedial actions, education, effective conflict resolution, and/or other informal resolution mechanisms. For assistance with conflict resolution and other informal resolution techniques and approaches, employees should contact the Coordinator of Human Resources, and students should contact the Director of Student Services.

Sexual Harassment -- The Reporting Standard

Anyone experiencing Sexual Harassment in any MTSO program is encouraged to report it immediately to the Title IX Coordinator. Remedies, education, and/or training may be provided in response. Discipline is not typically imposed for Sexual Harassment as defined in this section unless it meets the disciplinary standard below by creating a hostile environment.

Hostile Environment – The Disciplinary Standard

Sexual Harassment may be disciplined when it creates a hostile environment, takes the form of *quid pro quo* harassment, and/or is retaliatory harassment and will be addressed by the Sex/Gender Harassment, Discrimination and Sexual Misconduct Policy.

EXPECTATIONS REGARDING CONSENSUAL RELATIONSHIPS

There are inherent risks in any romantic and/or sexual relationship between individuals in unequal positions (such as faculty member and student or supervisor and employee). These relationships may, in reality, be less consensual than perceived by the individual whose position confers power. Similarly, the relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Circumstances may change, and conduct that was once welcome may, at some point in the relationship, become unwelcome.

Even when both parties have initially consented to a romantic and/or sexual involvement, the possibility of a later allegation of a relevant policy violation still exists. MTSO does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the institution. However, romantic and/or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are inherently problematic. For the personal protection of members of this community, romantic and/or sexual relationships between students and faculty are prohibited. Faculty who wish to begin a romantic and/or sexual relationship with a student should resign their position. If a faculty member does not resign, the existence of such a relationship is cause for immediate dismissal including, for tenured faculty members, the revocation of tenure.

In cases of romantic and/or sexual relationships between employees or employees and students, supervisory or evaluative relationships are prohibited. All employee/employee or employee/student relationships, regardless of supervisory status, must be disclosed to HR through a disclosure form available in the office of HR. Persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring these relationships to the timely

attention of the Coordinator of HR, who will work with the employees and involved supervisors to determine shifting appropriate supervisory or evaluative responsibilities. The existence of this type of relationship will likely result in removing the supervisory or evaluative responsibilities from the employee, or shifting a party out of being supervised or evaluated by someone with whom they have established a consensual relationship. Where an affected relationship existed prior to adoption of this policy, the duty to notify the Coordinator of HR still pertains. Failure to timely self-report such relationships to a supervisor as required can result in disciplinary action for an employee.

A relationship between a Student Building Manager and a student over whom the Building Manager has direct responsibility must be disclosed to the Director of Student Services.

In the case of members of the Board of Trustees, disclosure of any romantic and/or sexual relationships with members of the MTSO community must be disclosed to the Board Chair. If the relationship exists with an employee, the employee also must disclose the relationship to HR

Policy Regarding Minors

Ohio law, O.R.C. 2151.421 defines a minor as an individual under the age of 18 years old.

The definition of unlawful sexual conduct with a minor in Ohio is:

No person who is eighteen years of age or older shall engage in sexual conduct with another, who is not the spouse of the offender, when the offender knows the other person is thirteen years of age or older but less than sixteen years of age, or the offender is reckless in that regard.

Therefore, sexual contact by an adult with a person younger than 16 years old in Ohio is likely a crime, and requires an immediate report to the applicable child welfare agency. It represents a violation of this policy, even if the minor welcomed the sexual activity.

- **Reporting Obligations:** Any individual affiliated with MTSO who is acting in an official or professional capacity and knows or has reasonable cause to suspect that a child under eighteen years of age, or a person under twenty-one years of age with a developmental disability or physical impairment has suffered or faces a threat of suffering any physical or mental wound, sexual abuse or injury or condition of any nature that reasonably indicates abuse or neglect of the child shall report this knowledge to the public children services agency or law enforcement officer in the county in which the child resides or in which the abuse occurs.
- All individuals affiliated with MTSO must participate in annual training regarding reporting abuse of minors as a part of the annual training regarding reporting obligations of responsible employees upon notice of any sexual abuse of a student enrolled at the institution.
- MTSO will conduct a thorough, reliable and impartial investigation all reports of allegations of sexual abuse of a minor or sexual abuse of an enrolled student by a faculty or staff member or a non-student.

i. Other Civil Rights Offenses

In addition to the forms of sexual misconduct described above, the following conduct is also prohibited as forms of discrimination when the act is based upon the reporting party's actual or perceived membership in a protected class.

- Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;
 - Discrimination, defined as actions that deprive, limit, or deny other members of the community of educational or employment access, benefits, or opportunities;
 - Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
 - Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the MTSO community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity;
 - Bullying, defined as
 - Repeated and/or severe
 - Aggressive behavior
 - Likely to intimidate or intentionally hurt, control, or diminish another person, physically or mentally
- ii. Violation of any other MTSO policies may constitute a Civil Rights Offense when a violation is motivated by actual or perceived membership in a protected class, and the result is a discriminatory effect on employment or educational access, benefits, or opportunities.

Sanctions for the above-listed Civil Rights Offenses range from reprimand through expulsion (students) or termination of employment.

Retaliation

Retaliation is defined as any materially adverse action taken *because of* a person's participation in a protected activity. Protected activity includes reporting an incident that may implicate this policy, participating in the resolution process, supporting a reporting or responding party, or assisting in providing information relevant to an investigation.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. MTSO is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

Federal Timely Warning Obligations

Parties reporting sexual misconduct, intimate partner violence, and/or stalking should be aware that under the Clery Act, MTSO Coordinators must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community. MTSO will ensure that a reporting party'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.

Parental Notification (allegations involving students)

MTSO reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, change in student status or student conduct situation, particularly alcohol and other drug violations. MTSO may also notify parents/guardians of non-dependent students who are under age 21 of alcohol and/or drug policy violations.

When a student is non-dependent, MTSO may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk. MTSO also reserves the right to designate which MTSO officials have a need to know about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

RESOLUTION PROCESS FOR ALLEGATIONS OF HARASSMENT, AND OTHER FORMS OF DISCRIMINATION.

MTSO will act on any formal or informal allegation/notice of violation of the policy on Equal Opportunity, Harassment, and Nondiscrimination (“the Policy”) that is received by the Title IX Coordinator and/or EEO Coordinator or any faculty, staff, or other employee, with the exception of confidential resources, as articulated in the Policy.

The procedures below apply to all allegations of harassment discrimination other than sexual misconduct which is addressed in the separate policy and procedures in compliance with Title IX Regulations, on the basis of protected class status involving students, staff, or faculty member. Other categorized employees are subject to the terms of their agreements/employees’ rights to the extent those agreements do not conflict with federal or state compliance obligations.

These procedures may be used to address collateral misconduct arising from the investigation of or occurring in conjunction with reported misconduct (e.g. vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by the Policy will be addressed through procedures elaborated in the student, faculty, and staff handbooks.

These procedures, like the Policy, are global in scope. While they are informed by various laws such as Titles VI, VII, and IX, as well as state law) and can be used to satisfy these laws, the procedures stand alone as MTSO’s resolution mechanism for the conduct covered by the Policy, whether state or federal law applies or not. Law sets the floor for these procedures, but MTSO has determined the resolution mechanisms that are best suited to its community.

Overview

Upon receipt of an allegation or notice to the Title IX Coordinator and/or EEO Coordinator of an alleged violation of the Policy, MTSO initiates this resolution process, which involves a prompt preliminary inquiry to determine if there is reasonable cause to believe the nondiscrimination policy has been violated.

If so, MTSO will initiate one of three responses: a remedial response because the reporting party does not want to proceed formally; an informal resolution; or a formal resolution including an

investigation and an opportunity for a hearing. A formal resolution is thorough, reliable, impartial, prompt, fair, and as private as possible.

The investigation and resolution process determine whether the Policy has been violated. If so, MTSO will promptly implement effective remedies designed to end the discrimination, prevent its recurrence, and address its effects.

Resolution Process

If at any point in the Resolution Process the evidence indicates that an incident does not rise to the level of discrimination or harassment but could be in violation of other Institution policies, the Title IX Coordinator and/or EEO Coordinator may refer the matter to the appropriate office (e.g. Student Conduct, Human Resources, Academic Affairs) for further investigation and resolution.

Roles of Resolution Pool Members

The resolution process relies on a pool of officials (“the Pool”) to carry out the process. 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 Title IX Coordinator and/or EEO Coordinator:

- To provide appropriate intake for and initial guidance pertaining to allegations
- To act as advisors to the parties
- To perform or assist with preliminary inquiries
- To investigate allegations
- To serve as a Hearing administrator for allegations and/or sanctions
- To serve as an appeal officer for appeals of allegations and/or sanctions

Training Pool Members

The Pool Members receive training on MTSO’s Discrimination and Harassment Policies and Procedures (including Sexual Misconduct) and training on conducting an investigation for those Pool Members who may be engaged in that function. Specific training is also provided for decision makers and appeals officers and intake personnel. All Pool members are required to engage in annual or ongoing training.

Reporting Misconduct

Any member of the MTSO community (i.e., student, faculty, staff, volunteer), guest, or visitor who believes that the policy on Nondiscrimination, Harassment and Retaliation has been violated should contact the Title IX Coordinator and/or EEO Coordinator. If the conduct is criminal in nature, any member of the community, including guests and visitors, may contact the local police to make a report. It is also possible for employees to notify a supervisor, or for students to notify a Coordinator or faculty member. These individuals will notify the Title IX Coordinator and/or EEO Coordinator.

All employees (except those whom MTSO has designated as confidential) who receive notice of a potential violation of MTSO’s harassment or discrimination policies are expected to promptly contact the Title IX Coordinator and/or EEO Coordinator within 24 hours of becoming aware of a report or incident. Specific information on any allegations received by any party will be reported to

the Title IX Coordinator and/or EEO Coordinator, and every effort will be made to maintain the privacy of those initiating a report.

In all cases, MTSO will consider the reporting party's wishes regarding how the reported misconduct is pursued, but reserves the right to investigate and pursue a resolution even when a reporting party chooses not to initiate or participate in the resolution process when doing so is necessary to protect the community.

Confidentiality and Reporting of Offenses Under This Policy

All MTSO employees are considered responsible employees, and therefore must report actual or suspected discrimination or harassment to appropriate officials immediately. In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. Currently on campus, only spiritual directors, contracted by MTSO, are considered confidential resources, and are not required to report actual or suspected discrimination or harassment, but will report aggregate statistics for Clery Reporting purposes. They may also report if immediate danger to the reporting party or campus community exists, or if cases involve a minor. They may offer options and resources without any obligation to inform an outside agency or campus official unless a reporting party has requested this information be shared.

If a reporting party expects formal action on their allegations, reporting to any employee can connect them with resources to report crimes and policy violations, and these employees will immediately pass reports to the Title IX Coordinator (and/or police, if desired by the reporter), who will take action when an incident is reported to them. The following describes the reporting options at MTSO:

a. Confidential Reporting

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

Off-campus (non-employees):

- Licensed professional counselors and other medical providers
- Local rape crisis counselors
- Domestic violence resources
- Local or state assistance agencies
- Clergy/Chaplains
- Attorneys

Specific reporting resources:

The Campus Conduct Hotline at 1-800-9HELPUS (1-800-943-5787) is available for students, employees, or others who prefer to contact a resource outside of the institution confidentially or anonymously.

HelpLine of Delaware and Morrow Counties is another resource, which can be reached by dialing 211 (9-211 from campus phones) or 1-800-684-2324. (If you are hearing impaired, call HelpLine at 711 or 1-800-750-0750.) HelpLine is a 24 hour local, toll-free crisis support and information and

referral hotline for people living in Delaware and Morrow Counties. HelpLine is part of Delaware County's Sexual Assault Response Network (SARN), a network of volunteer advocates who have been specially trained to do crisis intervention, offer emotional support, make referrals, and answer questions for survivors of sexual assault who present to the emergency department of Grady Memorial Hospital, the Delaware City Police Department or the Delaware County Sheriff's Office.

The Delaware Police Department (740-203-1111) holds the law enforcement authority for the campus. The campus is also under the jurisdiction of the Delaware County Sheriff's Office (740-833-2810). The School is available to assist victims of a crime with contacting the authorities, reporting claims, and pursuing restraining orders.

As stated above, ordained Spiritual Directors contracted with the school to meet with students, are also confidential resources.

All of the above-listed individuals will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor. The Campus Conduct Hotline listed above will submit timely anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client.

b. Formal Reporting Options

MTSO employees have a duty to report harassment or discrimination of which they become aware, unless they fall under the "Confidential Reporting" section above. Employees must promptly share all details of the reports they receive.

Reporting parties may want to carefully consider whether they share personally identifiable details with non-confidential employees, as those details must be shared with the Title IX Coordinator. Generally, climate surveys, classroom writing assignments or discussions, human subjects research, or events such as "Take Back the Night" marches or speak-outs do not provide notice that must be reported to the Coordinator by employees, unless the reporting party clearly indicates that they wish a report to be made. Support measures may result from such disclosures without formal MTSO action.

When a Reporting Party Does Not Wish to Proceed

If a reporting party does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with federal law.

The Title IX Coordinator has ultimate discretion over whether MTSO proceeds when the reporting party does not wish to do so. Note that MTSO's ability to remedy and respond to a reported incident may be limited if the reporting party does not want the institution to proceed with an investigation and/or the resolution process. The goal is to provide the reporting party with as much control over the process as possible, while respecting MTSO's obligation to protect its community.

In cases in which the reporting party requests confidentiality and the circumstances allow MTSO to honor that request, MTSO will offer interim supports and remedies to the reporting party and the community, but will not otherwise pursue formal action. If the reporting party elects to take no action, they can change that decision later if they decide to pursue a formal process at a later date. With formal reports, a reporting party has the right, and can expect, to have allegations taken seriously by MTSO, and to have the incidents investigated and properly resolved through these procedures.

Failure of a Mandated Reporter to Report

Failure of a non-confidential employee, as described in this section, to report an incident of sex/gender harassment or discrimination of which they become aware is a violation of MTSO policy and can be subject to disciplinary action for failure to comply.

Privacy and Sharing on a Need-to-Know Basis

Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told.

Information will be shared as necessary with investigators, witnesses, and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve a reporting party's rights and privacy.

False Allegations and Information

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

Additionally, witnesses and parties providing knowingly false evidence or deliberately misleading an official conducting an investigation will be subject to discipline under MTSO policy.

Amnesty for Reporting Party and Witnesses

The MTSO community encourages the reporting of misconduct and crimes by reporting parties and witnesses. Sometimes, reporting parties or witnesses are hesitant to report to MTSO officials or participate in resolution 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.

It is in the best interests of the MTSO community that reporting parties choose to report to MTSO officials, and that witnesses come forward to share what they know. To encourage reporting, MTSO maintains a policy of offering reporting parties and witnesses amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs - related to the incident. Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution.

Students: Sometimes, students are hesitant to assist others for fear that they may get in trouble themselves (for example, a student who has been drinking might hesitate to help take an individual who has experienced sexual misconduct to a Building Manager). MTSO maintains a policy of amnesty for students who offer help to others in need. While policy violations cannot be

overlooked, the Institution may provide educational options, rather than punishment, to those who offer their assistance to others in need.

Interim Actions and Responsive Measures`

MTSO will offer and implement appropriate and reasonable responsive, supportive, and/or protective measures to reporting and responding parties upon notice of alleged harassment, discrimination, and/or retaliation.

These interim actions are intended to support both the reporting and responding parties; protect and preserve access to educational and employment programs and activity; address the short-term effects of harassment, discrimination, and/or retaliation; protect the safety of all parties; and prevent further violations.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other health services
- Visa and immigration assistance
- Student financial aid counseling
- Education to the community or community subgroup
- Altering campus housing situation
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus escorts
- Providing transportation accommodations
- Implementing contact limitations (no contact orders) between the parties
- Academic support
- Offering adjustments to academic deadlines, course schedules, etc.

At the time that measures are offered, the Institution will inform the reporting party, in writing, that they may file a formal report with the Institution either at that time or in the future.

MTSO will maintain as confidential the supportive or protective measures, provided that confidentiality does not impair MTSO's ability to provide the supportive or protective measures. Reasonable measures taken will be at no cost to the parties.

MTSO will use the least restrictive means possible when determining appropriate interim actions to ensure the continued safety and health of the reporting and responding parties and/or MTSO's community and to ensure as minimal an academic impact on the reporting and responding parties. The Institution will implement measures that do not unreasonably burden the other party and will regularly re-evaluate the actions to determine the necessity of their continued implementation.

MTSO may suspend a student or student organization in the interim, or place an employee on paid or unpaid administrative leave, pending the completion of investigation and resolution procedures when, in the judgment of the Title IX Coordinator and/or EEO Coordinator, the safety or well-being of any member(s) of MTSO's community may be jeopardized by the on-campus presence/on-going

activity of the responding party. MTSO may implement such measures if, after engaging in an individualized analysis, MTSO determines that the immediate threat to any member(s) of the Institution's community justifies removal of the individual.⁴

In all cases in which an interim action/suspension is imposed, the student, employee, or two representatives from a student organization will be given the option to meet with the Title IX Coordinator and/or EEO Coordinator prior to such action/suspension being imposed, or as soon thereafter as reasonably possible, to show cause why the action/suspension should not be implemented or should be modified. This meeting is not a hearing on the merits of the allegation(s), rather an administrative process intended to determine solely whether the interim action/suspension is appropriate. The Title IX Coordinator and/or EEO Coordinator has sole discretion to implement or stay an interim action/suspension and to determine conditions and duration. Violation of an interim action under this policy will be grounds for discipline which may include expulsion or termination. During an interim action/suspension, a student or employee may be denied access to any or all of the following: MTSO housing/campus/facilities/events.

At the discretion of the Title IX Coordinator and/or EEO Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the reporting and responding parties.

Preliminary Inquiry

Following receipt of notice or an alleged violation of MTSO's harassment or non-discrimination policies, the Title IX Coordinator and/or EEO Coordinator⁵ engages in a preliminary inquiry to determine if there is reasonable cause to believe the nondiscrimination policy has been violated. The preliminary inquiry is typically 1-5 days in duration.

In any situation in which violence, threat, pattern, predation, minors, and/or the use of a weapon is **not** evidenced, the Title IX Coordinator and/or EEO Coordinator may respect a reporting party's request not to pursue the matter through the formal resolution process and will investigate informally only so far as necessary to determine appropriate remedies or refer the matter for alternate resolution options.⁶

If the Title IX Coordinator and/or EEO Coordinator determines that Title IX is not applicable to allegations of sexual misconduct, but MTSO still intends to apply these policies and procedures to resolve the misconduct allegations, the Title IX Coordinator and/or EEO Coordinator will document that it has been determined that Title IX is inapplicable but that MTSO policies and procedures will nevertheless be applied.

⁵ If circumstances require, the President or Title IX Coordinator and/or EEO Coordinator may designate another person to oversee the process below should an allegation be made about the Coordinator or the Coordinator be otherwise unavailable or unable to fulfill their duties.

⁶ In cases where the responding party is an employee, MTSO may be less inclined to abide by the reporting party's wishes not to proceed.

Compelling Formal Proceeding

MTSO reserves the right to initiate formal resolution proceedings without a report or participation by the reporting party when deemed necessary by the Title IX Coordinator and/or EEO Coordinator, usually to protect the community in situations that evidence a compelling safety risk. When the Institution has actual knowledge of reports by multiple individuals regarding misconduct by the same responding party, the Title IX Coordinator and/or EEO Coordinator will initiate formal proceedings pursuant to this section, regardless of the participation level of one or more of the reporting parties.⁷

When MTSO proceeds, the reporting party (or their advisor) may have as much or as little involvement in the process as they wish. The reporting party retains all rights of a reporting party under this process irrespective of their level of participation. Typically, when the reporting party chooses not to participate, the advisor is appointed as proxy for the reporting party throughout the process, acting to ensure and protect the rights of the reporting party. When the Title IX Coordinator believes it is necessary to move the process forward but also knows that credibility will be a key consideration in the formal process, the Coordinator must balance MTSO's need to move forward without the involvement of the reporting party against the rights of the responding party, who is entitled to a fair process in accordance with these procedures.

When the reporting party wishes to proceed or MTSO determines it will proceed, and the preliminary inquiry shows that reasonable cause exists, the Title IX Coordinator and/or EEO Coordinator will direct that the allegation be resolved through one of the following processes, discussed briefly here and in greater detail below:

- Informal Resolution – typically used for less serious offenses and only when the reporting and responding parties agree to informal resolution or the responding party is willing to accept responsibility for a violation. A preliminary inquiry will still typically precede this step.
- Formal Resolution – investigation and a hearing before neutral, impartial decision-maker, subject to appeal, and final determination. Remedies to restore those impacted will be implemented upon a finding of policy violation.

Discretion to Terminate the Process at Any Time

The process followed considers the preferences of the parties, but is ultimately determined by the Title IX Coordinator and/or EEO Coordinator. If, during the preliminary inquiry or at any point during the formal investigation, the Title IX Coordinator and/or EEO 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 reporting party may request that the Title IX Coordinator and/or EEO Coordinator review the reasonable cause determination and/or re-open the investigation. This decision lies in the sole discretion of the Title IX Coordinator and/or EEO Coordinator, but the request is usually only

granted in extraordinary circumstances. Other appeal options do not apply.

Cross-claims

The Institution permits the filing of cross-claims but uses the preliminary inquiry, described above, to assess whether the allegations are made in good faith. Cross-claims by the responding party may be made in good faith, but are, on occasion, also made for purposes of retaliation. MTSO is obligated to ensure that the resolution process is not abused for retaliatory purposes.

Cross-claims determined to have been reported in good faith will be processed using the resolution procedures below. Investigation of such claims may take place after resolution of the underlying allegation, in which case a delay may occur. Cross-claims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator and/or EEO Coordinator. When cross-claims are not made in good faith, they will be considered retaliatory, and may constitute a violation of this policy.

Advisors/Advocates

Reporting and responding parties may have an advisor/advocate of their choice present with them for all meetings and interviews within the resolution process, if they so choose. The parties may select whomever they wish to serve as their advisor/advocate as long as the advisor/advocate is eligible and available. While it is not advisable to choose as an advisor someone who is also a witness in the process, should a party decide to do so, the potential for bias and conflict-of-interest of the witness can and will be explored by the Hearing Panel.

The advisor/advocate may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise and consult with them throughout the resolution process. The parties may choose advisors/advocates from inside or outside the MTSO community. The parties may choose a non-trained advisor/advocate, or proceed without an advisor.

The parties may be accompanied by their advisor/advocate in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors/advocates should help their advisees prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

MTSO cannot guarantee equal advisory rights, meaning that if one party selects an advisor/advocate who is an attorney, but the other party does not, or cannot afford an attorney, MTSO is not obligated to provide an attorney. MTSO will, however, recommend an advisor/advocate from MTSO if a hearing proceeding takes place and the party has not previously been accompanied by an advisor/advocate.

All advisors/advocates are subject to the same campus rules, whether they are attorneys or not. Advisors/Advocates may not address campus officials in a meeting or interview unless invited to. The advisor/advocate 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 investigators or other decision-makers except during a hearing proceeding, as described below.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation. While the advisor/advocate generally may not speak on behalf of their advisee, the advisor/advocate may consult with their advisee, either privately as needed, or quietly by passing notes during any resolution process meeting or interview, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advisors/advocates should ask for breaks to step out of meetings to allow for private consultation.

Advisors/Advocates may be given an opportunity to meet with the administrative officials conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows advisors/advocates to clarify any questions they may have, and allows MTSO an opportunity to clarify the role the advisor/advocate is expected to take.

Advisors/Advocates are expected to refrain from interference with MTSO's investigation and resolution. Any advisor/advocate who steps out of their role will be warned once and only once. If the advisor/advocate continues to disrupt or otherwise fails to respect the limits of the advisor/advocate role, the advisor/advocate will be asked to leave the meeting. When an advisor/advocate is removed from a meeting, that meeting will typically continue without the advisor/advocate present. Subsequently, the Title IX Coordinator and/or EEO Coordinator will determine whether the advisor/advocate may be reinstated or replaced by a different advisor/advocate.

MTSO expects that the parties may wish to have MTSO share documentation and evidentiary information related to the allegations with their advisors/advocates. Parties may share this information directly with their advisor/advocate, or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process. MTSO also provides a consent form that authorizes MTSO to share such information directly with the advisor/advocate. The parties must either complete this form or provide similar documentation consenting to a release of information to the advisor/advocate before MTSO is able to share records with an advisor/advocate.

Advisors/Advocates 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 MTSO. MTSO may seek to restrict the role of any advisor/advocate who does not respect the sensitive nature of the process or who fails to abide by the Institution's privacy expectations.

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

A party may elect to change advisors/advocates during the process, and is not obligated to use the same advisor throughout. The parties are expected to inform the investigators of the identity of their advisor/advocate at least one (1) day before the date of their first meeting with investigators

(or as soon as possible if a more expeditious meeting is necessary or desired). The parties are expected to provide timely notice to investigators if they change advisors/advocates at any time.

The Institution may permit parties to have more than one advisor upon special request to the Title IX Coordinator. The decision to grant this request is at the sole discretion of the Title IX Coordinator, and will be granted equitably to all parties.

Resolution Processes

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 MTSO 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. MTSO encourages parties to discuss this with their advisor/advocates before doing so.

a. Informal Resolution

Informal Resolution is used when the parties agree to resolve the matter through conflict resolution, when the responding party accepts responsibility for violating policy or when the Title IX Coordinator and/or EEO Coordinator can resolve the matter informally by providing remedies to resolve the situation. It is not necessary to pursue Informal Resolution first in order to pursue Formal Resolution, and any party participating in Informal Resolution can stop the process at any time and request the Formal Resolution process.

Prior to implementing Informal Resolution, MTSO will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by MTSO. MTSO will obtain voluntary, written confirmation that the reporting and responding parties wish to resolve the matter through Informal Resolution.⁸

i. Conflict Resolution

Conflict Resolution is an informal process, such as mediation or restorative practices, by which a mutually-agreed upon resolution of an allegation is reached. It may be used for less serious, yet inappropriate conduct and is encouraged as an alternative to the Formal Resolution process to resolve conflicts. The parties must consent to the use of Conflict Resolution.

Additionally, the Title IX Coordinator and/or EEO Coordinator determine(s) if Conflict Resolution is appropriate based on the willingness of the parties, the nature of the conduct at issue, and the amenableness of the conduct to Conflict Resolution. In a Conflict Resolution meeting, a trained administrator or third-party facilitates a dialogue with the parties to an effective resolution, if possible. Sanctions are not possible as the result of a Conflict Resolution process, though the parties may agree to appropriate remedies.

The Title IX Coordinator and/or EEO Coordinator maintains records of any resolution that is reached, and failure to abide by the accord may result in appropriate responsive/disciplinary

actions.

Conflict Resolution is not the primary resolution mechanism used to address reports of violent conduct of any kind or in other cases of serious violations of policy, though it may be made available after the Formal Process is completed, should the parties and the Title IX Coordinator and/or EEO Coordinator believe that it could be beneficial. Conflict Resolution is not used as a stand-alone resolution in cases of sexual violence.

ii. Responding Party Admits Responsibility For Alleged Violations

The responding party may admit responsibility for all or part of the alleged policy violations at any point during the resolution process. If the responding party admits responsibility for all alleged misconduct, the matter is referred to a Decision-maker, identified by the Title IX Coordinator, who renders the determination that the responding party is in violation of MTSO policy and determines appropriate sanctions and/or responsive actions in coordination with other appropriate administrator(s).

The appropriate sanction or responsive actions are promptly implemented in order to effectively to stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the reporting party and the community.

If the responding party only admits to part of the alleged policy violations, then the Decision-maker finds the responding party in violation for the admitted violations, and the contested allegations will be resolved using Formal Resolution. Any applicable sanctions will be issued upon completion of the Formal Resolution process.

iii. Negotiated Resolution

The Title IX Coordinator and/or EEO Coordinator, with the consent of the parties, may negotiate and implement an agreement to resolve the allegations that satisfies all parties and MTSO.

b. Formal Resolution: Step 1 – Investigation

Formal Resolution can be pursued for any conduct for which the responding party has not accepted responsibility that constitutes conduct covered by the Policy at any time during the process. Formal Resolution starts with a formal investigation.

Notice

If Formal Resolution is initiated, the Title IX Coordinator and/or EEO Coordinator will provide written notification of the investigation to the responding party upon commencement of the formal process. This facilitates the responding party's ability to prepare for the interview and to identify and choose an advisor/advocate to accompany them.

Notification will include a summary of the allegations including (if known) the identity of the parties involved, the precise misconduct being alleged, the date and location of the alleged incident(s), the specific policies implicated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result. Notification will also note that MTSO presumes the responding party 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, the reporting and responding parties may request to inspect and review evidence obtained, and, when applicable, a statement informing the parties of any provision in MTSO's policy/code of conduct/etc., that prohibits knowingly making false statements, including knowingly submitting false information during the resolution process.

Updates on this notice may be made as the investigation progresses and more information is available.

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 addresses of the parties as indicated in official MTSO records, or emailed to the parties' MTSO-issued email accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The reporting party is typically copied on such correspondence – if copied, an indication of that will be included on the correspondence to the responding party.

Resolution Timeline

MTSO will make a good faith effort to complete the resolution process within a sixty-to-ninety (60-90) business day time period, including appeals, which can be extended as necessary for appropriate cause by the Title IX Coordinator and/or EEO Coordinator, with notice to the parties as appropriate.

Appointment of Investigators

Once the decision is made to commence a formal investigation, the Title IX Coordinator and/or EEO Coordinator appoints a trained administrator to conduct the investigation, usually within two (2) business days of determining that an investigation should proceed.

Ensuring Impartiality

Any individual materially involved in the administration of the resolution process (including the Title IX Coordinator and/or EEO Coordinator, investigator, or decision-maker(s)) may neither have nor demonstrate a conflict of interest or bias for either reporting or responding parties generally, or for a specific reporting or responding party.

The EEO/ Title IX Coordinator will vet the assigned investigators to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or bias. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator and/or EEO 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.

The resolution process involves an objective evaluation of all relevant evidence obtained, both that which supports that the responding party engaged in a policy violation and that which supports that the responding party did not engage in a policy violation. Credibility determinations may not be based, in any way, on an individual's status as a reporting party, responding party, or witness.

Until the responding party is determined to be responsible by a preponderance of the evidence for a policy violation, MTSO operates with the presumption that the responding party is not responsible for the reported misconduct.

Investigation Timeline

Investigations are completed expeditiously, normally within ten (10) business days, though some investigations take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc. MTSO 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.

Delays in the Process and Interactions with Law Enforcement

MTSO may undertake a short delay in its investigation (several days to weeks) if circumstances require. Such circumstances include, but are not limited to, concurrent law enforcement activity, the need for language assistance, the absence of parties and/or witnesses, and/or accommodation for disabilities or health conditions. MTSO will communicate in writing the anticipated duration of the delay and reason to the parties and provide the parties with status updates if necessary. MTSO will promptly resume its investigation and resolution process as soon as feasible. During such a delay, MTSO will implement interim actions as deemed appropriate.

MTSO 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.

Steps in the Investigation

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 to fully review and respond to all evidence, on the record.

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

- Upon referral from the Title IX Coordinator, and/or the EEO Coordinator, 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 all witnesses and the responding party.
- Meet with the reporting party to finalize their interview/statement, if necessary.
- Provide the parties and witnesses an opportunity to review and verify the investigator's summary notes from their respective interviews and meetings.
- Make good faith efforts to notify the parties of any meeting or interview involving the other 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. Investigators and/or the Title IX Coordinator and/or EEO Coordinator will provide advanced notice of such meetings, with rare exception.
- 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 investigators 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.
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence, copies of which are to be included in an appendix to the report.
- Prior to the conclusion of the investigation, provide the parties and their respective advisors/advocates (if so desired by the parties) a copy of the draft investigation report.
- Provide the parties with an equal opportunity to inspect and review the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the Institution does not intend to rely in reaching a responsibility determination, so that each party may meaningfully respond to the evidence prior to the conclusion of the investigation.
- Provide each party with a full and fair opportunity (no fewer than 10 days) to respond to the investigation report in writing.
- May choose 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, make any changes needed, include a thorough credibility assessment of all the parties and witnesses, and finalize the report. The final report is then shared with all parties.
- The Title IX Coordinator and/or EEO Coordinator will provide the Decision Maker with a copy of the final investigation report, complete with all relevant evidence, the parties' submitted responses, and any relevant subsequent materials, documentation, communications, etc.

Role and Participation of Witnesses

Witnesses (as distinguished from the parties) who are faculty, students, or staff of MTSO are expected to cooperate with and participate in MTSO's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline.

While in-person interviews for both parties and all potential witnesses are ideal, circumstances (e.g. study abroad, summer break) may require individuals to be interviewed remotely. Skype™, Zoom™, FaceTime™, WebEx™, or similar technologies may be used for interviews if investigators determine that timeliness or efficiency dictate a need for remote interviewing. Witnesses may also provide written statements in lieu of interviews, if deemed appropriate by the investigators, though not preferred.

Recording of Interviews

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.

Evidentiary Considerations in the Investigation

Unless the Title IX Coordinator and/or EEO Coordinator determines it is appropriate, the investigation and the finding of responsibility does not consider: (1) incidents not directly related to the possible violation, unless they evidence a pattern, (2) the sexual history of the parties (though there may be a limited exception made in regard to the sexual history between the parties or when evidence regarding the reporting party's sexual history is offered to prove that someone other than the responding party engaged in the reported misconduct), or (3) the character of the parties.

Admission of Violation

The responding party may admit responsibility for all or part of the alleged policy violations at any point during the resolution process. If the responding party admits responsibility for all of the alleged misconduct, the matter is directly referred to the Decision-maker, who will make a determination that the individual is in violation of MTSO policy and determine appropriate sanctions and/or responsive actions. These sanction(s) and/or responsive actions are promptly implemented in order to effectively to stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the reporting party and the community.

Referral for Hearing

Provided that the allegations are not resolved through Informal Resolution, or in cases where the responding party admits the violation, the Title IX Coordinator and/or EEO Coordinator will refer the matter for a hearing within ten (10) days of the conclusion of the investigation, barring unusual circumstances.

a: Decision-maker

The Title IX Coordinator and/or EEO Coordinator will refer the investigation to an assigned Decision maker to conduct an in-person meeting with both parties and the investigator.

An assigned investigator will attend the live hearing as the primary witness and therefore may not also serve in the role of the Decision Maker. Those who are serving as advisors for either party may not serve as Decision-makers in that matter. The EEO/Title IX Coordinator may not serve as the Decision-maker in that matter.

Evidentiary Considerations

Any evidence that the Decision-maker believes is relevant and credible may be considered, including an individual's prior misconduct history, as well as evidence indicating a pattern of misconduct. When prior misconduct is related to the current allegations, the prior misconduct may be considered at the findings stage of the process; unrelated prior misconduct (e.g. alcohol abuse) will only be considered during sanctioning. The Decision-maker may exclude irrelevant or immaterial evidence and may choose to disregard evidence lacking in credibility or that is improperly prejudicial.

While previous conduct violations by the responding party are not generally admissible as information supporting the current allegation, the investigator(s) may supply the Decision-maker 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 responding party may be considered in determining the appropriate sanction, because MTSO uses a progressive discipline system.

The Decision-maker renders a determination based on the preponderance of the evidence, i.e., whether it is more likely than not that the responding party violated policy.

If all parties opt to waive the hearing, the Title IX Coordinator and/or EEO Coordinator will refer the matter to the Decision-maker.

i. Notice of Hearing

Ten [10] days prior to the hearing, or as far in advance as is reasonably possible if an accelerated hearing is scheduled with the consent of the parties, the Title IX Coordinator will send a letter of notice to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The letter will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
- Notification that the parties may have the assistance of an advisor/advocate of their choosing at the hearing (See Section on “Advisors/Advocates” above).
- If the reporting party does not appear at the scheduled hearing, the hearing will be cancelled. If the responding party does not appear for the hearing they will have waived their rights to due process and the Decision-maker will make a ruling on the evidence presented. For compelling reasons, the Decision-maker may reschedule the hearing.

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

ii. Pre-Hearing

The Decision-maker, after consultation with the parties as necessary, will provide the names of witnesses who will be participating in the hearing, all pertinent documentary evidence, and the investigation report between the parties at least ten (10) days prior to the hearing. Any witness scheduled to participate in the hearing must have been interviewed first by investigators or have proffered a written statement, unless all parties consent to the witness’ participation in the hearing.

Any objection to the Decision-maker must be raised in writing and submitted to the EEO/Title IX Coordinator as soon as possible. Decision-makers will only be removed if the EEO/Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation.

Decision-maker will be given a list of the names of all parties and witnesses at least seven (7) 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 and all witnesses 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 EEO/Title IX Coordinator as soon as possible.

All parties will have the opportunity to present facts and arguments in full, and to question witnesses and party(ies) during the hearing. Procedures below describe the questioning mechanisms permitted.

Alternative Hearing Options

If a party or parties prefer not to attend the hearing in person, the parties should request alternative arrangements from the Decision-maker at least two (2) days prior to the hearing. The Decision-maker can arrange to use technology to allow remote testimony without compromising the fairness of the hearing.

iii. Hearing Procedures

Hearings will usually be convened 10-14 days from the completion of the investigation and will be conducted in private. The Decision-maker has the authority to hear all allegations of discrimination, harassment, and retaliation and may also hear any additional alleged policy violations that have occurred in concert with the discrimination, harassment or retaliation, even though those collateral allegations may not specifically fall within the policy on Equal Opportunity, Harassment, and Nondiscrimination.

Participants will include the Decision-maker, the investigator who conducted the investigation, the reporting and responding parties, advisors to the parties, and any called witnesses.

Investigator Presents the Report

The Decision-Maker explains the procedures and introduces the participants.

The investigator(s) will then present the report of the investigation and will be subject to questioning by the parties and the Decision-maker. The investigator(s) will be present during the entire hearing process, but not during deliberations. Once the investigator(s) present their report and are questioned, the parties may provide relevant information in turn and the Decision-maker will permit questioning of and by the parties and witnesses.

Questioning

There are two options for questioning:

- If all parties assent in advance, the following questioning approach can be approved by the Decision-maker. The parties are able to submit written questions of the other party(ies), witnesses, and investigators to the Decision-maker. Questions may be submitted in advance of the hearing or during the hearing proceeding itself. The Decision-maker may also pose their own questions during the hearing. If this approach is selected, parties and/or advisors may not pose live questions directly.
- If all parties assent in advance, a second questioning option can be approved by the Decision-maker, permitting the parties to pose all questions to other parties, witnesses, and investigators directly.

The Decision-maker has absolute discretion to determine which questions are relevant to the determination and may decline to pose or permit certain questions.

The rationale for all questions submitted in writing by the parties which are rejected by the Decision-maker and/or *not* posed by the Decision-maker will be explained in writing to the party who submitted the question(s) within two (2) days of the conclusion of the hearing proceeding.

The Decision-maker may also direct that certain live questions, once posed, are not appropriate and should not be answered. In such instances, the Decision-maker will provide the questioning advisor with a rationale for their exclusion of the specific question(s). The Decision-maker is responsible for ensuring that neither abusive nor inappropriate questioning occurs.

The Decision-maker may consult with legal counsel, when needed, to help to assess the appropriateness of specific questions. If any party or advisor is disrespectful of or disruptive to the proceedings, the Decision-maker will take actions they deem appropriate to impose appropriate decorum.

Evidence Presented at the Hearing

Formal rules of evidence do not apply. Any evidence that the panel believes is relevant and credible may be considered, including an individual's prior misconduct history as well as evidence indicating a pattern of misconduct. The Decision-maker is responsible for addressing any evidentiary concerns prior to and/or during the hearing, may exclude irrelevant or immaterial evidence, and may ask the Decision-maker to disregard evidence lacking in credibility or that is improperly prejudicial. The Decision-maker will determine all questions of procedure and evidence. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

Unless the Decision-maker determines it is appropriate, no one will present information or raise questions concerning: (1) incidents not directly related to the possible violation, unless they evidence a pattern, (2) the sexual history of the parties (though there may be a limited exception with respect to pattern, the sexual history between the parties, or where evidence regarding the reporting party's sexual history is offered to prove that someone other than the responding party engaged in the reported misconduct), if relevant, (3) or the character of the parties. While previous conduct violations by the responding party are not generally admissible as information about the present allegation, the investigators may supply the Decision-maker with information about previous findings to consider as possible evidence of pattern and/or predatory conduct.

There will be no observers in the hearing unless an exception is granted by the Decision-maker. 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 or the parties involved, and then be excused.

In hearings involving more than one responding party or in which two (2) or more reporting parties have accused the same individual of substantially similar conduct, the standard procedure will be to hear the allegations jointly; however, the EEO/Title IX Coordinator may permit the investigation and/or hearings pertinent to each responding party 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 responding party.

Hearings (except for deliberations) are recorded for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted. Decision-maker, the parties, their advisors and appropriate administrative officers of MTSO will be allowed to listen to the recording in a controlled environment determined by the EEO/Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the EEO/Title IX Coordinator.

Deliberation and Decision-making

The Decision-maker will deliberate in closed session to determine whether the responding party is responsible or not responsible for the policy violation(s) in question. The Decision-maker will base the determination(s) on a preponderance of the evidence (i.e. whether it is more likely than not that the responding party committed each alleged violation).

When there is a finding of responsibility on one or more of the allegations, the parties will then be invited to submit a statement to the Decision-maker for consideration in determining an appropriate sanction(s). The reporting party may submit a written statement describing the impact of the conduct and expressing a preference about the sanction(s) to be imposed. The Decision-maker may – at their discretion – consider the reporting party’s preference, but it is not binding.

The responding party may submit a written statement explaining any factors that they believe should mitigate or otherwise be considered in determining the sanction(s) imposed. The Chair will ensure that each of the parties has an opportunity to review any statement submitted by the other party(ies).

Decision-maker will review the impact statements and will implement the appropriate sanction(s). The Decision-maker, will then prepare a written deliberation report and deliver it to the EEO/Title IX Coordinator, detailing the finding, the information used in support of its recommendation, and any information the Decision-maker excluded from its consideration and why. The report should conclude with any sanctions. This report typically should not exceed three (3) pages in length and must be submitted to the EEO/Title IX Coordinator within two (2) days of the end of deliberations, unless the EEO/Title IX Coordinator grants an extension. If an extension is granted, the EEO/Title IX Coordinator will notify the parties.

Using the deliberation report, the EEO/Title IX Coordinator will prepare a letter of outcome and will share the letter, including the final determination and applicable sanction(s), within two (2) days of receiving the Decision-maker’s deliberation report. The letter of outcome will be shared with the parties without significant time delay between notifications. 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 MTSO records, or emailed to the parties’ MTSO-issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

The letter of outcome will identify the specific policy(ies) reported to have been violated, including the relevant policy section. The letter 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 Institution is permitted to share such information under state or federal law; any sanctions issued which MTSO is permitted to share according to state or federal law; and any remedies provided to the reporting party designed to ensure access to MTSO's educational or employment program or activity, to the extent MTSO is permitted to share such information under state or federal law. The notification will also include information on when the results are considered by MTSO to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any appeals options that are available.

ii. **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
- The responding party's disciplinary history
- Previous allegations or allegations involving similar conduct
- Any other information deemed relevant by the Decision-maker
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the reporting party and the community
- The impact on the parties

The sanctions 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.

Student Sanctions

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

- *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any MTSO policy, procedure, or directive will result in more severe sanctions/responsive actions.
- *Required Counseling*: A mandate to meet with and engage in either MTSO -sponsored or external counseling to better comprehend the misconduct and its effects.
- *Probation*: A written reprimand for violation of MTSO policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any MTSO policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, no-contact orders, and/or other measures

deemed appropriate.

- *Suspension*: Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at MTSO .
- *Expulsion/Dismissal*: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend MTSO -sponsored events. This sanction could be noted permanently as a Conduct Expulsion on the student's official transcript.
- *Withholding Diploma*: MTSO may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending or as a sanction if the student is found responsible for an alleged violation.
- *Revocation of Degree*: MTSO reserves the right to revoke a degree previously awarded from MTSO for fraud, misrepresentation, or other violation of MTSO policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Organizational Sanctions*: Deactivation, loss of recognition, loss of some or all privileges (including MTSO registration) for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, MTSO may assign any other sanctions as deemed appropriate.

Employee Sanctions

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

- *Warning – Verbal or Written*
- *Performance Improvement/Management Process*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Loss of Annual 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, MTSO may assign any other sanctions as deemed appropriate.

d. Withdrawal or Resignation While Charges Pending

Students: MTSO does not permit a student to withdraw if that student has an allegation pending for violation of the policy on Equal Opportunity, Harassment, and Nondiscrimination.

Should a student decide to not participate in the resolution process, the process will proceed absent their participation to a reasonable resolution. Should a student responding party

permanently withdraw from MTSO, the resolution process ends, as MTSO no longer has disciplinary jurisdiction over the withdrawn student. However, MTSO will continue to address and remedy any systemic issues, variables that have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination. The student who withdraws or leaves while the process is pending may not return to MTSO. A hold will be placed on their ability to be readmitted. If the student only withdraws or take a leave for a specified period of time (e.g. one semester or term), the resolution process will continue and that student is not permitted to return to MTSO unless and until all sanctions have been satisfied. During the resolution process, MTSO may put a hold on a responding student's transcript or place a note on a responding student's transcript or dean's disciplinary certification that a disciplinary matter is pending.

Employees: Should an employee resign with unresolved allegations pending, the resolution process ends, as MTSO no longer has disciplinary jurisdiction over the resigned employee. However, MTSO will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination. The employee who resigns with unresolved allegations pending is not eligible for rehire with MTSO, and the records retained by the Title IX Coordinator and/or EEO Coordinator will reflect that status. All MTSO responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

e. Appeals

All requests for appeal consideration must be submitted in writing to the Title IX Coordinator and/or EEO Coordinator within three (3) days of the delivery of the written letter of outcome to the parties. Any party may appeal the findings and/or sanctions, but appeals are limited to the below grounds.

Appeal Grounds:

- A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures).
- To consider new evidence, unknown or unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included in the submitted appeal request.
- The sanctions imposed fall outside the range of sanctions MTSO has designated for this offense and the cumulative record of the responding party.

The designated appeal administrator(s) will review the appeal request(s). The original finding and sanction/responsive actions will stand if the appeal is not timely or is not based on the grounds listed above. This decision is final. The party requesting appeal must show that one or more of the appeal grounds has been met, and the other party or parties may, but is not obligated, to show the grounds have not been met. The original finding and sanction are presumed to have been decided reasonably and appropriately.

When any party requests an appeal, the Title IX Coordinator and/or EEO Coordinator will share the appeal request with the other party(ies), who may file a response within two (2) days of receiving a copy of the appeal, and/or bring their own appeal on separate grounds within the original appeal timeframe. If new grounds are raised, the original appealing party will be

permitted to submit a written response to these new grounds within two (2) days. Any response or appeal request will be shared with each party.

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

- Decisions by the Appeal administrator are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction/responsive action only if there is a compelling justification to do so.
- Appeals are not intended to 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 grounds for appeal. An appeal is not an opportunity for appeal administrator to substitute their judgment for that of the original Decision-maker merely because they disagree with its finding and/or sanctions.
- The Appeal administrator may consult with the Decision-maker on questions of procedure or rationale for clarification, if needed.
- Appeals granted based on new evidence should normally be remanded to the original investigators and/or Decision-maker for reconsideration.
- Sanctions imposed as the result of the formal or informal resolution processes are implemented immediately unless the Title IX Coordinator and/or EEO Coordinator or designee stays their implementation in extraordinary circumstances pending the outcome of the appeal.
 - For students: Graduation, study abroad, internships/ externships, etc., do NOT in and of themselves constitute extraordinary circumstances, and students may not be able to participate in those activities during their appeal.
- The Title IX Coordinator and/or EEO Coordinator will confer with the Appeal administrator, incorporate the results of any remanded grounds, and render a written decision on the appeal to all parties within two (2) days from the hearing of the appeal or remand. The letter of outcome for the appeal will be shared with the parties without significant time delay between notifications. 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 MTSO records, or emailed to the parties' MTSO-issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.
- The letter of outcome for the appeal will specify the finding on each alleged policy violation, any sanctions that may result which MTSO is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent MTSO is permitted to share under state or federal law. The letter will also include information that this is a final result.
- 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). In rare cases where a procedural [or substantive] error cannot be cured by the original Decision-maker (as in cases of bias), the appeals panel may recommend a new hearing with a new Decision-maker. 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 where the appeal results in reinstatement to MTSO or resumption of privileges, all reasonable attempts will be made to restore the responding party to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

f. Long-Term Remedies/Actions

Following the conclusion of the resolution process and in addition to any sanctions implemented, the Title IX Coordinator and/or EEO Coordinator may implement long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the harassment or discrimination, 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 individual and/or the community
- Permanent alteration of housing arrangements
- Permanent alteration of work arrangements for employees
- Provision of campus escorts
- Climate surveys
- Policy modification
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator and/or EEO Coordinator, 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 Title IX Coordinator and/or EEO Coordinator will address any remedial requirements owed by the Institution to the responding party.

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

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

All responding parties are expected to comply with the assigned sanctions, responsive actions, and corrective actions within the timeframe specified by the Title IX Coordinator and/or EEO Coordinator. Failure to abide by the sanctions/actions imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanctions/ actions, including suspension, expulsion, and/or termination from MTSO and may be noted on a student's official transcript. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator and/or EEO Coordinator.

Records

In implementing this policy, records of all allegations, investigations, formal and informal

resolutions, and hearings will be kept indefinitely by the Title IX and/or EEO Coordinator in the Title IX/EEO Coordinator database. MTSO will also retain all materials used to train Coordinators, investigators, and decision-makers.

Statement of the Rights of the Parties

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment or discrimination made in good faith to MTSO officials;
- The right to timely written notice of all alleged violations, including the identity of the parties involved, the precise misconduct being alleged, the date and location of the alleged misconduct, 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 reporting parties, unsubstantiated allegations) and any attendant adjustments needed to clarify potential policy violations implicated.
- The right to be informed in advance of any public release of information regarding the allegation(s) or underlying incident(s), whenever possible;
- The right to not have any personally identifiable information released to the public, without consent provided, except to the extent permitted by law;
- The right to be treated with respect by MTSO officials;
- The right to have MTSO policies and procedures followed without material deviation;
- The right to not be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence;
- The right to not be discouraged by MTSO officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities;
- The right to be informed by MTSO officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by MTSO authorities in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report, as well;
- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by MTSO law enforcement and/or other MTSO officials;
- The right to be informed of available interim actions, such as counseling; advocacy; health care; legal, student financial aid, visa, and immigration assistance; or other student services, both on campus and in the community;
- The right to an MTSO-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 that presents a danger to the welfare of the party or others;

- 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, need occur before this option is available. Such actions may include, but are not limited to:
 - Changing an on-campus student's housing to a different on-campus location
 - Assistance from MTSO staff in completing the relocation
 - Changing an employee's work environment (e.g. reporting structure, office relocation)
 - Transportation accommodations
 - Visa/immigration assistance
 - Arranging to dissolve a housing contract and a pro-rated refund
 - Exam, paper, and/or assignment rescheduling or adjustment
 - Taking 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 MTSO maintain such actions for as long as necessary and for protective measures to remain private, provided privacy does not impair the MTSO's ability to provide the accommodations or protective measures;
- The right to be fully informed of relevant MTSO policies and procedures as well as the nature and extent of all alleged violations;
- The right to receive a detailed notice of investigation, once MTSO has decided to pursue a formal investigation, which contains the identity of the parties involved, the date and location of the alleged incident, the specific misconduct alleged, and the policies implicated by the alleged misconduct;
- The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible;
- The right to ask the investigator(s) and Decision-maker to identify and question relevant witnesses, including expert witnesses;
- The right to provide the investigator(s)/ Decision-maker with a list of questions that, if deemed relevant and appropriate by the investigator(s) Decision-maker, may be asked of any party or witness;
- The right to not have irrelevant prior sexual history or character admitted as evidence;
- The right to know the relevant evidence obtained, and to respond to that evidence on the record;
- A fair opportunity for the parties to provide the investigator(s) with their account and have that account be on the record.

- The right to receive a copy of the investigation report, including all factual, policy, and/or credibility analyses performed, and all relevant evidence available and used to produce the investigation report, subject to the privacy limitations imposed by state and federal law, prior to the hearing, and the right to have at least [10] days to review the report prior to the hearing;
- The right to respond to the investigation report, including comments providing any additional relevant evidence after the opportunity to review the investigation report, and to have that response on the record;
- 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, where 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, EEO/Title IX Coordinators, Decision-maker who have received relevant annual training;
- The right to preservation of privacy, to the extent possible and permitted by law;
- The right to meetings, interviews, and/or hearings that are closed to the public;
- The right to petition that any MTSO representative in the process be recused on the basis of demonstrated 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 preponderance of the evidence standard to make a finding after an objective evaluation of all relevant evidence;
- The right to be present for all testimony given and evidence presented during any resolution-related hearing;
- The right to submit an impact statement in writing to the Decision-maker following determination of responsibility, but prior to sanctioning;
- The right to be promptly informed in a written notice of outcome letter of the finding(s) and sanction(s) of the resolution process and a detailed rationale therefor (including an explanation of how credibility was assessed), delivered without undue delay between the notifications to the parties;
- The right to be informed in writing of when a decision by MTSO is considered final and any changes to the sanction that occur before the decision is finalized;
- The right to be informed of the opportunity to appeal the finding and sanction of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by MTSO;
- The right to a fundamentally fair resolution as defined in these procedures.

Disabilities Accommodation in the Equity Resolution Process

MTSO is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the resolution process. Anyone needing such accommodations or support should contact the Director of Student Services or the Coordinator of HR if employee, who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator and/or EEO Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

Revision

These policies and procedures published on the MTSO website January 2020 supersede any previous policy(ies) addressing harassment, sexual misconduct, and discrimination and will be reviewed and updated annually by the Title IX Coordinator and/or EEO Coordinator. MTSO 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 Title IX Coordinator and/or EEO Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules.

The Title IX Coordinator and/or EEO Coordinator may also vary procedures materially with notice (on the institutional web site, with appropriate date of effect identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure.

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.

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 in January 2020.