

**MOUNT ALOYSIUS COLLEGE
COMPREHENSIVE POLICY ON
TITLE IX**

TABLE OF CONTENTS

Notice of Non-Discrimination	4
Statement of Policy Prohibiting Title IX Sexual Harassment	4
Applicable Scope	4
Prohibited Conduct	5
Title IX Coordinator, Deputy Coordinator, Team	9
Key Definitions	10
Notice of Complaints of Discrimination, Harassment, Retaliation	12
Procedures for Filing Internal Complaint	12
Supportive Measures Available to Parties	13
Emergency Removal due to Immediate Threat to Physical Health or Safety Of Student/Other Individual	14
Timeline for Response	15
Confidentiality and Privacy	15
Jurisdiction of Mount Aloysius College	16
Time Limits of Reporting	17
Mandated Reporting	17
When a Complainant Does Not Wish to Proceed	19
Federal Timely Warning Obligations	20
False Allegations and Evidence	20
Amnesty For Complainants and Witnesses	21
Interim Resolution Process for Alleged Violations of the Policy	21
Resolution Options	22
Informal Resolution	22
Alternate Resolution	22
Respondent Accepts Responsibility for Alleged Violations	23
Negotiated Resolution.	24
Administrative Resolution	24
Complaint Processing/Procedures for Administrative Resolution	25

Notice of Complaint/Initial Assessment	. . .	25
Violence Risk Assessment	. . .	25
Mandatory and Discretionary Dismissals	. . .	27
Advisors	. . .	27
Role of Advisors	. . .	27
College Expectations of Advisors	. . .	28
Role of Advisors During Hearing	. . .	28
Grievance Process Pool	. . .	29
Formal Grievance Process-Notice of		
Investigation/Allegations	. . .	29
Counterclaims	. . .	30
Investigation	. . .	31
Hearing	. . .	31
Expectation of Honesty	. . .	32
Written Determination	. . .	32
Disciplinary Sanctions/Remedies	. . .	32
Long-Term Remedies/Actions in		
Addition to Sanctions	. . .	33
Failure to Complete Sanctions or		
Comply with Remedies or Responsive Actions	. . .	33
Withdrawal/Resignation of Pending Charges	. . .	34
Appeals	. . .	34
Record Keeping Requirements	. . .	35
Federal Statistical Reporting Obligations	. . .	35
Training	. . .	35
Modifications to the Policy	. . .	36

NOTICE OF NON-DISCRIMINATION

Mount Aloysius College (hereinafter “the College” or “MAC”) 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 program or activity, MAC has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of protected class status, and for allegations of retaliation. MAC values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved. In situations wherein the College learns of such discrimination, the College is committed to remedying the discrimination and its effects.

STATEMENT OF POLICY PROHIBITING TITLE IX SEXUAL HARASSMENT

Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et. Seq) and its implementing regulations prohibit discrimination on the basis of sex in education programs and activities as follows, “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.” Mount Aloysius College does not discriminate on the basis of sex in the educational programs or activities that it operates.

APPLICABLE SCOPE

The core purpose of this policy is the prohibition of sexual harassment and discrimination as defined by Title IX of the Education Amendments of 1972, as amended. Sometimes, discrimination involves exclusion from activities, such as admission, athletics, or employment. Other times, discrimination takes the form of harassment or, in the case of sex-based discrimination, can encompass sexual harassment, sexual assault, stalking, sexual exploitation, dating violence or domestic violence. When an alleged violation of this policy is reported, the allegations are subject to resolution using the College’s Title IX process as implemented by the Title IX Coordinator, and as detailed below.

When the Respondent is a member of the MAC community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the MAC community. This community includes, but is not limited to, students, student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, invitees, and campers. The procedures below may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

PROHIBITED CONDUCT

The College has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community, which consists not only of employer and employees, but of students as well.

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

The following constitute prohibited conduct if the conduct occurs within the United States and within the College's education program or activity, and at the time of filing a formal complaint, the complainant is participating in or attempting to participate in the education program or activity at the College.

Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex that satisfies one or more of the following:

- 1) Quid Pro Quo:
 - a. an employee of the College,
 - b. conditions the provision of an aid, benefit, or service of the College,
 - c. on an individual's participation in unwelcome sexual conduct; and/or

- 2) Sexual Harassment:
 - a. unwelcome conduct,
 - b. determined by a reasonable person,
 - c. to be so severe, and
 - d. pervasive, and,
 - e. objectively offensive,
 - f. that it effectively denies a person equal access to the College's education program or activity.

- 3) Sexual assault, defined as:
 - a) Sex Offenses, Forcible:
 - i) Any sexual act directed against another person,
 - ii) without the consent of the Complainant,
 - iii) including instances in which the Complainant is incapable of giving consent.
 - b) Forcible Rape:
 - i) Penetration,
 - ii) no matter how slight,
 - iii) of the vagina or anus with any body part or object, or
 - iv) oral penetration by a sex organ of another person,
 - v) without the consent of the Complainant.
 - c) Forcible Sodomy:
 - i) Oral or anal sexual intercourse with another person,

- ii) forcibly,
 - iii) and/or against that person's will (non-consensually), or
 - iv) not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- d) Sexual Assault with an Object:
- i) The use of an object or instrument to penetrate,
 - ii) however slightly,
 - iii) the genital or anal opening of the body of another person,
 - iv) forcibly,
 - v) and/or against that person's will (non-consensually),
 - vi) or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- e) Forcible Fondling:
- i) The touching of the private body parts of another person (buttocks, groin, breasts),
 - ii) for the purpose of sexual gratification,
 - iii) forcibly,
 - iv) and/or against that person's will (non-consensually),
 - v) or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- f) Sex Offenses, Non-forcible:
- i) Incest:
 - 1) Non-forcible sexual intercourse,
 - 2) between persons who are related to each other,
 - 3) within the degrees wherein marriage is prohibited by Pennsylvania law.
 - ii) Statutory Rape:
 - 1) Non-forcible sexual intercourse,
 - 2) with a person who is under the statutory age of consent of 18.
- 4) Dating Violence, defined as:
- a. violence,
 - b. on the basis of sex,
 - c. committed by a person,
 - d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
 - i. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
 - ii. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

- iii. Dating violence does not include acts covered under the definition of domestic violence.

5) Domestic Violence, defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a current or former spouse or intimate partner of the Complainant,
- d. by a person with whom the Complainant shares a child in common, or
- e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Pennsylvania, or
- g. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Pennsylvania.

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

6) Stalking, defined as:

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

For the purposes of this definition—

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

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

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

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

Coercion: Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

Consent is:

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

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

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain *their* consent to being kissed back. Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.

The burden remains on Mount Aloysius College to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

Incapacitation: A person cannot consent if he/she is unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if he/she engages in sexual activity with someone who is incapable of giving consent.

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

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction).

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

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

Retaliation also Prohibited Conduct

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

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

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

Charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

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

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

TITLE IX COORDINATOR/DEPUTY COORDINATOR/TEAM

The Vice President for Student Affairs serves as the Title IX Coordinator and oversees implementation of the College's policy on equal opportunity, harassment, and nondiscrimination. As Title IX Coordinator, the Vice President for Student Affairs, has the primary responsibility for coordinating the College's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy. The Title IX Coordinator, manages the Title IX Team and acts with independence and authority free from bias and conflicts of interest.

The Title IX Coordinator oversees all resolutions under this policy and these procedures. Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made internally to the Title IX Coordinator using the following contact information:

Dr. Tracy B. McFarland, Vice President for Student Affairs, Mount Aloysius College, 7373 Admiral Peary Highway, Cresson, Pennsylvania 16630. Dr. McFarland can also be reached by phone at 814-886-6472 or email at tmcfarland@mtaloy.edu.

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may also be made internally to the Title IX Deputy Coordinator using the following contact information:

Tonia Gordon, Human Resources Director at 7373 Admiral Peary Highway, Cresson, Pennsylvania 16630. Ms. Gordon can be reached by phone at 814-886-6390 or email at tgordon@mtaloy.edu.

The Title IX Team is comprised of faculty and staff who are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

To raise any concern involving the Title IX Coordinator such as bias, conflict of interest, misconduct or discrimination, contact the Dr. John McKeegan, President, Mount Aloysius College at 7373 Admiral Peary Highway, Cresson, PA 16630, (814) 886-6411 or by email at jmckeegan@mtaloy.edu. Concerns of bias, potential conflict of interest, misconduct or discrimination by any other Title IX Team member should be raised with the Title IX Coordinator.

The College has also classified all employees, except those designated as *Confidential Resources* as defined in this policy as Mandated Reporters of any knowledge they have that a member of the community is experiencing harassment, discrimination, and/or retaliation. The section below on Mandated Reporting details which employees have this responsibility and their duties, accordingly.

KEY DEFINITIONS

- *Advisor* means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.
- *Complainant* means an individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- *Complaint (formal)* means a document filed/signed by a Complainant or signed by the Title IX Coordinator alleging harassment or discrimination based on a protected class or

retaliation for engaging in a protected activity against a Respondent and requesting that the College investigate the allegation.

- *Confidential Resource* means an employee who is not a Mandated Reporter of notice of harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority status).
- *Day* means a business day when the College is in normal operation.
- *Education program or activity* means locations, events, or circumstances where MAC exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs and also includes any building owned or controlled by a student organization that is officially recognized by Mount Aloysius College.
- *Final Determination*: A conclusion based on a preponderance of evidence that the alleged conduct occurred and whether it did or did not violate policy.
- *Finding*: A conclusion based on a preponderance of evidence that the conduct did or did not occur as alleged.
- *Formal Grievance Process* means the method of formal resolution designated by the College to address conduct that falls within the policies included below, and which complies with the requirements of 34 CFR Part 106.45.
- *Grievance Process Pool* includes any investigators, hearing officers, appeal officers, and Advisors who may perform any or all of these roles (though not at the same time or with respect to the same case).
- *Hearing Decision-maker or Hearing Panel* refers to those who have decision-making and sanctioning authority within the College's Formal Grievance process.
- *Investigator* means the person or persons charged by MAC with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.
- *Mandated Reporter* means an employee of the College who is obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator or Deputy Coordinator, excluding Confidential Resources.
- *Notice* means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.

- *Official with Authority (OWA)* means an employee of the College explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of the College.
- *Parties* include the Complainant(s) and Respondent(s), collectively.
- *Preponderance of Evidence* is the standard of proof satisfied when the party with the burden convinces the fact finder that there is greater than 50% chance that the claim is true.
- *Process* means the Formal Grievance Process detailed below and defined above.
- *Recipient* means a postsecondary education program that is a recipient of federal funding.
- *Remedies* are post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the College's educational program.
- *Respondent* means an individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- *Resolution* means the result of an informal or Formal Grievance Process.
- *Sanction* means a consequence imposed by the College on a Respondent who is found to have violated this policy.
- *Sexual Harassment* is the umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence.
- *Standard of Proof:* The standard of proof applied is preponderance of evidence.
- *Title IX Coordinator* the College official designated to ensure compliance with Title IX and the College's Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.
- *Title IX Team* refers to the Title IX Coordinator, the HR Director as Deputy Coordinator and any member of the Grievance Process Pool.

NOTICE/COMPLAINTS OF DISCRIMINATION/HARASSMENT/RETALIATION

Procedures For Filing Internal Complaint

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

1) The preferred method for reporting is to file a complaint with, or give verbal notice to, the Title IX Coordinator, Deputy Coordinator or Other Authorized Individual. Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator or any other official listed.

2) Complaints can also be filed via the Title IX page on the College website. Anonymous reports are accepted through EthicsPoint but can give rise to a need to investigate. Mount Aloysius College tries to provide supportive measures to all Complainants, which is impossible with an anonymous report. Because reporting carries no obligation to initiate a formal response, and as the College respects Complainant requests to dismiss complaints unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of privacy by making a report that allows the College to discuss and/or provide supportive measures.

A Formal Complaint means a document filed/signed by the Complainant or signed by the Title IX Coordinator or Deputy Coordinator alleging a policy violation by a Respondent and requesting that the College investigate the allegation(s). A complaint may be filed with the Title IX Coordinator or Deputy Coordinator in person, by mail, or by electronic mail, by using the contact information in the section immediately above, or as described in this section. As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the College) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint.

If notice is submitted in a form that does not meet this standard, the Title IX Coordinator or Deputy Coordinator will contact the Complainant to ensure that it is filed correctly.

SUPPORTIVE MEASURES

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

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

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice of a complaint or a complaint. At the time that supportive measures are offered, the College will inform the Complainant, in writing, that they may file a formal complaint with the College either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

Mount Aloysius College will maintain privacy of the supportive measures, provided that it does not impair the College's ability to provide the supportive measures. The College will act to ensure as minimal an academic impact on the parties as possible. The College will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Visa and immigration assistance
- Student financial aid counseling
- Education to the community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts or transportation accommodations
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Restriction/Mutual restrictions on contact between the parties
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

EMERGENCY REMOVAL DUE TO IMMEDIATE THREAT TO PHYSICAL HEALTH OR SAFETY OF STUDENT/OTHER INDIVIDUAL

Mount Aloysius College can act to remove a Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction with a behavioral assessment professional such as a licensed professional counselor using standard objective violence risk assessment procedures.

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

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so. This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to

Title IX. There is no appeal process for emergency removal decisions.

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

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion or termination.

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

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

TIMELINE FOR RESPONSE

All allegations are acted upon promptly by the College once notice is received or a formal complaint is filed. Complaints can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the College will avoid all undue delays within its control. The parties will be notified if the general timeframes outlined in the policy will be delayed, the cause of the delay and the estimated length of the delay.

CONFIDENTIALITY AND PRIVACY

Every effort is made by the College to preserve the privacy of reports. 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. Privacy means that information related to a complaint will be shared with a limited number of the College's employees who "need to know" in order to assist in the assessment, investigation, and resolution of the report. Mount Aloysius College will not share the identity of any individual who has made a report or complaint of harassment, discrimination, or retaliation; any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

Mount Aloysius College reserves the right to designate which College officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Only a small group of officials who need to know will typically be told about the complaint. Information will be shared as necessary with Investigators, Hearing Panel members/Decision-makers, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

The College may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk, but will usually consult with the student first before doing so.

JURISDICTION OF MOUNT ALOYSIUS COLLEGE

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

This policy can also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to the College's educational program. The College may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial College interest.

Regardless of where the conduct occurred, the College will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. A substantial College interest includes:

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

If the Respondent is unknown or is not a member of the College community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of the College's community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator.

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

All vendors serving the College through third-party contracts are subject to the policies and procedures of their employers.

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

Similarly, the Title IX Coordinator may be able to advocate for a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to the College where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant.

TIME LIMITS ON REPORTING

There is no time limitation on providing notice to or filing a complaint with the Title IX Coordinator. However, if the Respondent is no longer subject to the College's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

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

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

MANDATED REPORTING

All employees (faculty, staff, administrators) are expected to report actual or suspected discrimination or harassment to appropriate officials immediately, though there are some limited exceptions.

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

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator (and/or police, if desired by the Complainant), who will take action when an incident is reported to them.

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

a. Confidential Resources

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with campus departments/employees including professional counselors and staff, health services providers and staff, and members of the clergy. In addition, a Complainant is also permitted to seek community services independent of the College. When acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order, a Complainant's communications are confidential.

Campus counselors are available to help free of charge and may be consulted on an emergency basis during normal business hours.

College employees who are confidential will timely submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client, or patient.

b. Anonymous Notice to Mandated Reporters

At the request of a Complainant, notice may be given by a Mandated Reporter to the Title IX Coordinator anonymously, without identification of the Complainant. The Mandated Reporter cannot remain anonymous themselves.

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

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

When a Complainant has made a request for anonymity, the Complainant's personally identifiable information may be withheld by a Mandated Reporter, but all other details must be shared with the Title IX Coordinator or Deputy Coordinator. Mandated reporters may not be able to maintain requests for anonymity for Complainants who are minors, elderly, and/or disabled, depending on state reporting of abuse requirements.

c. Mandated Reporters and Formal Notice/Complaints

All employees of Mount Aloysius College (including student employees), with the exception of those who are designated as Confidential Resources, are Mandated Reporters and must promptly

share with the Title IX Coordinator all known details of a report made to them in the course of their employment.

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

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Mandated Reporters, as those details must be shared with the Title IX Coordinator.

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as “Take Back the Night” marches or speak-outs do not provide notice that must be reported to the Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or a seek a specific response from the College.

Supportive measures may be offered as the result of such disclosures without formal College action.

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

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

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

WHEN A COMPLAINANT DOES NOT WISH TO PROCEED

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

The Title IX Coordinator has ultimate discretion over whether the College proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment.

The Title IX Coordinator’s decision should be based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires the College to pursue formal action to protect the community.

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

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and the College's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

When the College proceeds, the Complainant (or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant. The College's ability to remedy and respond to notice may be limited if the Complainant does not want the College to proceed with an investigation and/or grievance process.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow the College to honor that request, the College will offer informal resolution options (see below), supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a Complainant has the right, and can expect, to have allegations taken seriously by Mount Aloysius College, and to have the incidents investigated and properly resolved through these procedures.

FEDERAL TIMELY WARNING OBLIGATIONS

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, the College 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.

Mount Aloysius College will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

FALSE ALLEGATIONS AND EVIDENCE

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 knowingly providing false evidence, tampering with or destroying evidence after being directed to preserve such evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under Mount Aloysius College's policy.

AMNESTY FOR COMPLAINANTS AND WITNESSES

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

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

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

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

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

The College maintains a policy of amnesty for students who offer help to others in need.

INTERIM RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE POLICY ON EQUAL OPPORTUNITY, HARASSMENT, AND NONDISCRIMINATION

Mount Aloysius College will act on any formal or informal allegation or notice of violation of the policy on Equal Opportunity, Harassment and Nondiscrimination that is received by the Title IX Coordinator or a member of the administration, faculty, or other employee, with the exception of confidential resources, as articulated in the Policy above.

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

These procedures may also be used to address collateral misconduct arising from the investigation of or occurring in conjunction with harassing or discriminatory conduct (e.g., vandalism, physical

abuse of another). All other allegations of misconduct unrelated to incidents covered by this policy will be addressed through the procedures elaborated in the respective student, faculty and staff handbooks.

RESOLUTION OPTIONS

All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accord with Mount Aloysius College Policy. While there is an expectation of privacy around what is discussed during interviews, the parties have discretion to share their own experiences with others if they so choose, but are encouraged to discuss with their Advisors first before doing so.

Reasonable accommodations and support may be provided to qualified students, employees, or others with disabilities to ensure equal access to the resolution process at Mount Aloysius College. Anyone needing such accommodations or support should contact the Director of Counseling and Disability Services, who will review the request and, in consultation with the person requesting the accommodation, and the Vice President of Student Affairs, determine which accommodations are appropriate and necessary for full participation in the process.

a. Informal Resolution

The informal resolution process is a voluntary, remedies-based process designed to provide members of the MAC community with an option to resolve certain disputes with other members of the MAC community in a forum that is separate and distinct from the formal grievance process. The purpose is to eliminate the conduct that has been reported. A formal complaint must be filed in order for the informal resolution process to be utilized by the parties. The informal resolution process is available in matters involving a student complainant and student respondent as well as in matters involving a faculty/staff complainant and faculty staff/respondent. The informal process is not available for matters involving a student and employee.

The College will provide notice of the allegations set forth in the formal complaint prior to the beginning of the informal resolution process. The Title IX Coordinator will refer the matter to a trained information resolution facilitator who may consult with each party separately, share information as appropriate, make suggestions about the terms of an informal resolution and take other reasonable steps to assist the parties in determining whether an informal resolution may be reached. The facilitator shall not take action inconsistent with the policy.

In the event the parties reach an informal resolution to the formal complaint, the facilitator shall memorialize the agreement into writing for the parties to sign and present to the Title IX Coordinator for review and approval. A party may withdraw from the informal resolution process at any time prior to the Title IX Coordinator approving the written resolution.

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

i. Alternate Resolution

Alternate 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, behaviors and is encouraged as an alternative to the Administrative Resolution process (described below) to resolve conflicts. The parties must consent to the use of Alternate Resolution.

The Title IX Coordinator determines if Alternate Resolution is appropriate, based on the willingness of the parties, the nature of the conduct at issue, and the susceptibility of the conduct to Alternate Resolution.

In an Alternate Resolution meeting, a trained administrator facilitates a dialogue with the parties to an effective resolution, if possible. Institutionally-imposed sanctions are not possible as the result of an Alternate Resolution process, though the parties may agree to accepted sanctions and/or appropriate remedies.

The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution can result in appropriate enforcement actions.

Alternate Resolution is not typically the primary resolution mechanism used to address reports of violent behavior of any kind or in other cases of serious violations of policy, though it may be made available after the Administrative Resolution process is completed should the parties and the Title IX Coordinator believe it could be beneficial. The results of Alternate Resolution are not appealable.

ii. Respondent Accepts Responsibility for Alleged Violations

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent accepts responsibility, the Title IX Coordinator makes a determination that the individual is in violation of the College's Policy.

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

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

If the Respondent accepts responsibility for some of the alleged policy violations and the Title IX Coordinator has determined appropriate sanction(s) or responsive actions, which are promptly implemented, for those violations, then the remaining allegations will continue to be investigated and resolved. The Complainant will be informed of this outcome. The parties are still able to seek Alternate Resolution on the remaining allegations, subject to the stipulations above.

iii. Negotiated Resolution

The Title IX Coordinator, with the consent of the parties, may negotiate and implement any agreement to resolve the allegations that satisfies all parties and the College.

b. Administrative Resolution

Administrative Resolution can be pursued for any behavior for which the Respondent has not accepted responsibility that constitutes conduct covered by the policy at any time during the process. Administrative Resolution starts with a thorough, reliable, and impartial investigation.

If Administrative Resolution is initiated, the Title IX Coordinator will provide written notification of the investigation to the parties at an appropriate time during the investigation. Typically, notice is given 48 hours in advance of an interview. Advanced notice facilitates the parties' ability to identify and choose an Advisor, if any, to accompany them to the interview.

Notification will include a meaningful summary of the allegations 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 College records, or emailed to the parties' College-issued or designated email account.

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

Mount Aloysius College aims to complete all investigations within a sixty (60) business day time period, which can be extended as necessary for appropriate cause by the Title IX Coordinator, with notice to the parties as appropriate.

Once the decision is made to commence an investigation, the Title IX Coordinator appoints investigators to conduct the investigation. Preferably, a team of two investigators will be appointed, usually within two (2) days of determining that an investigation should proceed.

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

The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Investigator will be assigned and the impact of the bias or conflict, if any, will be remedied. If the bias or conflict relates to the Title IX Coordinator, concerns should be raised with the President of the College.

Investigations are completed expeditiously, normally within 20 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.

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

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

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.

COMPLAINT PROCESSING FOR ADMINISTRATIVE RESOLUTION

1. Notice of Complaint/Initial Assessment

Upon receipt of a complaint or notice to the Title IX Coordinator of an alleged violation of the policy, an initial assessment will occur to determine the next steps. Following intake, receipt of notice, or a complaint of an alleged violation of the College's nondiscrimination Policy, the Title IX Coordinator engages in an initial assessment, which is typically one to five business days in duration. The initial assessment may include the Title IX Coordinator reaching out to the Complainant to offer supportive measures, working with the Complainant to ensure they have an Advisor, working with the Complainant to determine whether the Complainant prefers a supportive response or an Administrative Resolution.

If a supportive and remedial response is preferred, the Title IX Coordinator will work with the Complainant to identify their wishes and then seeks to facilitate implementation. The Administrative Resolution process is not initiated, though the Complainant can elect to initiate it later, if desired.

If an Informal Resolution option is preferred, the Title IX Coordinator will assess whether the complaint is suitable for informal resolution, and may seek to determine if the Respondent is also willing to engage in Informal Resolution.

If Administrative Resolution is preferred, the Title IX Coordinator will initiate the investigation process and determine whether the scope of the investigation will address an incident, and/or potential pattern of misconduct, and/or a culture/climate issue.

Violence Risk Assessment

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

VRAs require specific training and are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, or other behavioral health professionals. A VRA authorized by the Title IX Coordinator should occur in collaboration with a behavioral health professional or threat assessment team. Where a VRA is required by the Title IX Coordinator, a Respondent refusing to cooperate may result in a charge of failure to comply within the appropriate student or employee conduct process.

A VRA is not an evaluation for an involuntary behavioral health hospitalization nor is it a psychological or mental health assessment. A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

In many cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by a behavioral health professional as part of the initial assessment. A VRA can aid in ten critical and/or required determinations, including:

- Interim emergency suspension of a Respondent who is a threat to health/safety;
- Whether the Title IX Coordinator should pursue Administrative Resolution absent a willing/able Complainant;
- Whether to put the investigation on the footing of incident and/or pattern and/or climate;
- To help identify potentially predatory conduct;
- To help assess/identify grooming behaviors;
- Whether a Complaint is amenable to Informal Resolution, and what modality may be most successful;
- Whether to permit a voluntary withdrawal by the Respondent;
- Whether to impose transcript notation or communicate with a transfer Recipient about a Respondent;
- Assessment of appropriate sanctions/remedies;
- Whether a Clery Act Timely Warning/Trespass Order/Persona-Non-Grata is needed.

Based on the initial assessment, the College will initiate one of two responses, either the informal resolution process or administrative resolution process. The informal resolution process is typically used for less serious offenses and only when all parties agree to Alternate Resolution, or when the Respondent is willing to accept responsibility for violating policy. This can also include a remedies-only response. The administrative resolution includes the investigation of policy violation(s) and recommended finding, subject to a determination by the Title IX Coordinator or decision-maker and the opportunity to appeal to an Appeal Panel/Appeal Decision-Maker.

The investigation and the subsequent Administrative Resolution determine whether this policy has been violated. If this policy has been violated, the College will promptly implement effective remedies designed to end the discrimination, prevent recurrence, and address the effects.

The process followed considers the preference of the parties but is ultimately determined at the discretion of the Title IX Coordinator. At any point during the initial assessment or formal

investigation, if the Title IX Coordinator determines that reasonable cause does not support the conclusion that policy has been violated, the process will end, and the parties will be notified.

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

a. Dismissal (Mandatory and Discretionary)

Mount Aloysius College must dismiss a formal Title IX complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that the conduct alleged in the formal complaint would not constitute sexual harassment as defined in, even if proved, or the conduct did not occur in an educational program or activity controlled by the College (including buildings or property controlled by recognized student organizations), and/or the College does not have control of the Respondent, the conduct did not occur against a person in the United States, or at the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the education program or activity of the College.

The College may dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing if a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein, the Respondent is no longer enrolled in or employed by the College, or specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon any dismissal, the College will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties. This dismissal decision is appealable by any party under the procedures for appeal below. A dismissal pursuant to Title IX regulations does not prohibit the College from proceeding under another policy or provision of the within policy. A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

ROLE OF ADVISORS

Role of Advisors, Generally

In Title IX complaints, the parties may each have an advisor of their choice present with them for all meetings and interviews within the resolution process. The parties may select whoever they wish to serve as their advisor as long as the advisor is eligible and available. Parties should be cautious in selecting an advisor who is/may be a witness in the process as it creates a potential for bias and conflict-of-interest.

The advisor may be a friend, mentor, family member, attorney or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. An advisor may be from inside/outside the College community. The Title IX Coordinator will offer to assign a trained advisor for any party if the party chooses. If the parties choose an

advisor from the pool available from the College, the advisor will be trained by the College and be familiar with the College's resolution process.

A party may be accompanied by their advisor at all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should make a good faith effort to help their party prepare for each meeting.

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

The parties are expected to provide timely notice to the Investigator(s) and/or the Title IX Coordinator if they change Advisors at any time.

Upon written request of a party, the College will copy the Advisor on all communications between the College and the party. The Advisor may be asked to sign a Non-Disclosure Agreement regarding private and/or sensitive records.

College Expectations of Advisors, Generally

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

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

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

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

Role of Advisors During Hearing

The advisor's role is to provide support to the party he/she is advising. Advisors may not speak during the hearing except when permitted to present cross-examination questions. Advisors are not permitted to make arguments or answer questions. Advisors cannot direct the party on how to answer a question. Advisors do not have to be advocates.

GRIEVANCE PROCESS

Grievance Process-Title IX Team Members

The Formal Grievance Process relies on the Title IX Team to carry out the process. The Title IX Coordinator, in consultation with the President of the College, appoints the team, which acts with independence and impartiality. Team Members are usually appointed to three-year terms. Individuals who are interested in serving are encouraged to contact the Title IX Coordinator. Team members are announced in an annual distribution of this policy to all students, parents/guardians of students, employees, prospective students, and prospective employees. They are also listed in the Annual Title IX Report published by the Title IX Office.

The Team Members can be found on the Title IX page on the College website. The Title IX Coordinator can assign members to provide appropriate intake of and initial guidance pertaining to complaints, act as an Advisor to the parties, serve in a facilitation role in informal resolution or Alternate Resolution if appropriately trained in appropriate resolution modalities (e.g., mediation, restorative practices), perform or assist with initial assessment, investigate complaints, serve as a hearing facilitator (process administrator, no decision-making role), serve as a decision-maker regarding the complaint, or serve as an Appeal Decision-maker. Team members will receive annual training. Specific training is also provided for Appeal Decision-makers, intake personnel, Advisors (who are College employees), and Chairs. All Pool members are required to attend these trainings annually. The materials used to train members can be found on the Title IX page of the College website.

Formal Grievance Process: Notice of Investigation and Allegations

The Title IX Coordinator will provide written Notice of the Investigation and Allegations (the “NOIA”) to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent’s ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- A meaningful summary of all of allegations,
- The identity of the involved parties (if known),
- The precise misconduct being alleged,
- The date and location of the alleged incident(s) (if known),
- The specific policies implicated,
- A description of the applicable procedures,
- A statement of the potential sanctions/responsive actions that could result,
- A statement that the College presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- A statement about the College’s policy on retaliation,

- Information about the privacy of the process,
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor,
- A statement informing the parties that the College's Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
- Detail on how the party may request disability accommodations during the interview process,
- A link to the College's VAWA Brochure,
- The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have, and
- An instruction to preserve any evidence that is directly related to the allegations.

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

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

Counterclaims

The College permits the filing of counterclaims, but uses the initial assessment, described above in the Policy section, to assess whether the allegations are made in good faith. If they are, the allegations will be processed using the resolution procedures below, typically after resolution of the underlying allegation. Counterclaims by the Respondent not made in good faith or for purposes of retaliation will be considered an abuse of process and handled appropriately in accordance with this Policy.

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

INVESTIGATION

The investigators will collect information from each party and gather information to the extent it is reasonably possible. The investigation will typically include interviewing the Complainant, Respondent and any witnesses identified who may have information relevant to the Complaint. In addition, the Title IX Coordinator may identify additional individuals to interview. Interviews will be conducted in a thorough, impartial and fair manner. Each party will have equal opportunity to submit evidence.

The investigators will not require, allow or rely upon or use questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege such as the physician-patient privilege unless the individual holding the privilege waives it.

A party's medical, counseling and psychiatric records are confidential. Investigators will not access, consider, disclose or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, counsel or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the investigators obtain the party's voluntary, written consent.

The investigators will prepare a case file. All inculpatory and exculpatory information directly related to the allegations in the formal complaint will be included in the case file, including information the College will not rely on in reaching a determination. Information unrelated to the allegations in the formal complaint will be redacted and/or will not be admissible in the grievance process. A list of all redacted information will be maintained by the investigator(s). The investigator(s) will provide the case file, redacted of personally identifiable information in accordance with privacy regulations, to each party and their advisor in electronic form or hard copy. Any information relied on in adjudicating the matter will be provided to the parties and their advisors. An updated Notice of Allegations will be prepared if necessary.

The parties will have at least ten (10) business days to review the assembled information and provide a written response. The investigator(s) will review the parties' responses and consult with the Title IX Coordinator to determine whether additional investigation is warranted. After the investigation is complete, the investigator(s) will prepare a report summarizing the relevant, admissible information obtained during the investigation, including inculpatory and exculpatory evidence. The report will include each party's response. At least ten (10) business days prior to the hearing, the investigative report will be shared with the parties via electronic format. The parties may submit a written response to the investigative report at least five (5) business days before the hearing. The parties' written responses will be exchanged with the other party/advisor at least 48 hours prior to the hearing.

HEARING

In the event a hearing is scheduled, the hearing is "closed" and not open to the public. A Notice of Live Hearing will be sent to the parties at least five (5) business days prior to the scheduled hearing date. The Notice of Live Hearing will include the date, time and location of the hearing, whether it will be recorded via audio, video or court reporter/stenographer, the composition of the hearing board and a statement that there is a presumption of "no responsibility" on the part of the Respondent until/unless a determination is made at the end of the grievance process. At the request of either party, the College will arrange for the parties to be located in separate rooms with the use of technology enabling the parties to see and hear each other. In the event a party does not appear for the Live hearing, the hearing will be conducted in the party's absence. An advisor may appear and conduct cross-examination in the non-appearing party's absence.

A panel of three (3) individuals will hear every case. One of the panel members may be an external member and shall serve as the presiding officer. Generally, a live hearing will be conducted wherein all parties will assemble together at the same time. The presiding member will make evidentiary rulings, including in relation to what evidence and witnesses are relevant. The presiding member will maintain order and will have broad authority to address disruptive behaviors including the authority to adjourn the hearing or exclude a disruptive individual from the proceeding.

The hearing board has the right and responsibility to ask questions and elicit information from the parties/witnesses on the hearing board's own initiative. Only members of the board may ask questions of any person testifying, except in connection with cross-examination questions by advisors. The parties will have equal rights to present information to the board, to ensure the board has the benefit of each party's perspective about the evidence. This right includes calling witnesses.

EXPECTATION OF HONESTY

Parties and witnesses appearing are expected to respond honestly. A party or witnesses who intentionally provides false or misleading information may be subject to discipline.

WRITTEN DETERMINATION

The Hearing board will consider all relevant evidence and deliberate as to responsibility. The presiding member will make a determination. The hearing board will issue a written determination within fifteen (15) business days of the conclusion of the hearing which will be issued to the parties in electronic format and include: (1) a summary of the allegations, (2) description of the procedural steps taken from the formal complaint being filed to the hearing, (3) findings of fact supporting the determination, (4) conclusions regarding the application of the policy to the facts, (5) a statement and rationale for the result of each allegation including a determination regarding responsibility, (6) whether any remedies designed to restore or preserve equal access to the College's education program, activity or work environment will be implemented, and (7) appeal information.

DISCIPLINARY SANCTIONS/REMEDIES

If a party has been found to have violated the policy, the presiding member will refer the matter to appropriate College officials to determine sanctions and remedies to include in the written determination. Factors considered when determining any sanction(s)/responsive action(s) may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation
- An individual's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation

- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Title IX Coordinator

The following are possible sanctions that may be imposed upon students or student organizations singly or in combination: formal warning, probation, suspension, expulsion, withholding diploma or transcripts, revocation of degree, loss of organization privileges, and other sanctions as may be recommended.

The following are possible responsive actions for an employee who has engaged in harassment, discrimination, and/or retaliation include: verbal or written warning, performance Improvement/Management Process, Required Counseling, Training or Education, probation, loss of pay increase, loss of supervisory duties, demotion, suspension with or without pay, termination, and other sanctions as deemed appropriate.

LONG TERM REMEDIES/ACTIONS IN ADDITION TO SANCTIONS

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Vice President of Student Affairs may implement long-term remedies or actions with respect to the parties and/or the campus community to stop the harassment, discrimination, and/or retaliation; remedy its effects; and prevent its reoccurrence. These remedies/actions may include, but are not limited to referral to counseling and health services, the Employee Assistance Program, education to the community, permanent alteration of housing assignments, permanent alteration of work arrangements for employees, provision of campus safety escorts, climate surveys, policy modification, provision of transportation accommodations, implementation of long-term contact limitations between the parties, implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Vice President of Student Affairs, long-term remedies may also be provided to the Complainant even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedial requirements owed by the College to the Respondent.

FAILURE TO COMPLETE SANCTIONS OR COMPLY WITH REMEDIES OR RESPONSIVE ACTIONS

All Respondents are expected to comply with conduct sanctions, responsive actions, and corrective actions within the timeframe specified by the Vice President of Student Affairs.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/responsive/corrective action(s), including suspension, expulsion, and/or termination from the MAC 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 Vice President of Student Affairs.

WITHDRAWAL/RESIGNATION PENDING CHARGES

Students: The College 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. The College may place a hold, bar access to an official transcript, and/or prohibit graduation as necessary to permit the resolution process to be completed.

Employees: Should an employee resign with unresolved allegations pending, the records of the Title IX Coordinator will reflect that status, and any College responses to future inquiries regarding employment references for that individual will include the former employee's unresolved status.

APPEALS

Appeals are not intended to be full re-hearings (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the investigation and pertinent documentation regarding the grounds for appeal.

The parties have equal rights to file an appeal from a written determination in writing to the Title IX Coordinator within five (5) business days of the delivery of the written finding of the Title IX Coordinator or Decision-maker. The Title IX Coordinator will designate a three-member appeals panel within five (5) business days of receipt of the appeal. The members of the appeal's panel shall have no prior involvement in the matter. Appeals are limited to the following grounds:

- A procedural error or omission occurred that significantly impacted the outcome of the hearing;
- To consider new evidence, unknown or unavailable during the investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included;
- The sanction(s) imposed are disproportionate to the offense.

When any party requests an appeal, the Title IX Coordinator will share the appeal request with the other party(ies) or other appropriate persons such as the Investigator(s), who may file a response within five (5) business days. The other party may also bring their own appeal on separate grounds.

If new grounds are raised, the original appealing party will be permitted to submit a written response to these new grounds within five (5) business days. These responses or appeal requests will be shared with each party. The Appeal Chair/Panel will review the appeal request(s) within ten (10) business days of completing the pre-appeal exchange of materials and issue a written decision which will be provided electronically to both parties. If grounds

are not sufficient for an appeal, or the appeal is not timely, the appeal Chair/Panel dismisses the appeal.

If the appeal panel finds that there was a procedural irregularity that affected the outcome or new evidence is available which was not reasonably available at the time of the determination regarding responsibility or dismissal which could alter the outcome of the matter, the matter will be remanded to the Presiding hearing panel member to determine appropriate further action. If the appeal panel concludes that a panel member or investigator had a conflict of interest or bias relating to one of the parties that affected the outcome of the proceeding, the appeal panel will take appropriate measures to address and remediate the impact of bias or conflict.

Appeals panel decisions are final. In cases in which the appeal results in Respondent's reinstatement to MAC or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

RECORD KEEPING REQUIREMENTS

In implementing this policy, records of all allegations, investigations, resolutions, and hearings will be kept for at least seven (7) years, by the Vice President of Student Affairs.

FEDERAL STATISTICAL REPORTING OBLIGATIONS

Pursuant to the Clery Act, Campus Police has a duty to report all "primary crimes," which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson, hate crimes, which include any bias motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property, VAWA based crimes, which include sexual assault, domestic violence, dating violence, and stalking; and arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violation.

All personally identifiable information is kept private, but statistical information must be passed along to [campus law enforcement] regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

TRAINING

Mount Aloysius College will provide appropriate training to College individuals with responsibilities under this policy including the Title IX Coordinator, Deputy Coordinator, Title IX Team Members, Hearing Panel Members, Appeal Panel Members and Facilitators.

MODIFICATIONS TO THE POLICY

These policies and procedures will be reviewed at regular intervals by the Vice President of Student Affairs to determine whether modifications should be made. Modifications will be posted online. In addition, there may be situations that arise that may warrant minor modifications to the procedures based on the circumstances that exist. The Vice President of Student Affairs may make minor modifications to these procedures that do not materially jeopardize the fairness owed to any party.

Procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when the incident occurred. Policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution, unless the parties' consent to be bound by the current policy. If government regulations change in a way that impacts this document, this document will be construed to comply with the most recent government regulations.