

# MULTNOMAH UNIVERSITY



## TITLE IX NOTEBOOK OF POLICIES AND PROCEDURES FOR SEXUAL MISCONDUCT

POLICY AGAINST SEXUAL HARASSMENT AND DISCRIMINATION; SEXUAL VIOLENCE AND ASSAULT;  
DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING; AND PROCEDURES FOR ENFORCEMENT

TIXT Notebook (Version 6)  
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## **1. Introduction to Non-Discrimination and Sexual Misconduct**

### **1.1 Notice of Non-Discrimination**

Multnomah University does not discriminate on the basis of sex in its education programs or activities, which includes employment and admissions. As a Christ-centered community, Multnomah holds deep convictions about how we treat one another, anchored in the biblical truth that all human beings are created by God and bear His image. In keeping with those convictions, the university is committed to providing a learning, working, and living environment that promotes personal integrity, civility, and mutual respect and is free from discrimination on the basis of sex, which includes all forms of sexual misconduct. Sexual misconduct is an umbrella term that covers a variety of behavior including sexual assault and sexual harassment.

Sex discrimination is any behaviors and/or actions that deny or limit a person's ability to benefit from, and/or fully participate in the university's educational programs or activities or employment opportunities based on an individual's sex. As such, sex discrimination violates an individual's fundamental rights and personal dignity. Multnomah considers sex discrimination in all its forms to be a serious offense. This policy refers to all forms of sex discrimination by employees, students, or third parties, including, but not limited to, sexual harassment, sexual assault, sexual violence, domestic and dating violence, and stalking. The university emphasizes that every person, regardless of demographic or personal characteristics or identity, is entitled to the same protections against sexual harassment, and that every individual should be treated with equal dignity and respect.

The university also has additional policies regarding inappropriate sexual behavior, harassment, and discrimination that are not related to Title IX. Please refer to the *Student Handbook* and/or *Employee Handbook* for applicable policies and expectations. In its statement of compliance, Multnomah University reaffirms commitment to its [institutional mission, vision, and core values](#), as well as its policy statement on human sexuality.

### **1.2 The Applicable Federal Law**

Title IX of the Education Amendments of 1972 (Title IX), which prohibits discrimination based on sex in educational programs and activities that receive federal financial assistance, reads as follows: "No person in the United States shall, on the basis of sex, be excluded from participation in, or be denied the benefits of, or be subjected to discrimination under any education program or any activity receiving Federal financial assistance..." (Title IX of the Education Amendments of 1972, codified at 20 U.S.C. section 1681, and its implementing regulation at 34 C.F.R. Part 106). Under Title IX, discrimination on the basis of sex can include sexual harassment; unwelcomed sexual advances; or sexual violence, such as rape, sexual assault, sexual battery, and sexual coercion. The Campus SaVE Act, federal legislation enacted in 2013, adds domestic violence, dating violence, and stalking as categories of behavior that are expressly in violation of Title IX. The university does not tolerate unlawful sex discrimination and will endeavor to keep the community free of such conduct through education, training, clear policies and procedures, and appropriate consequences for those who violate this policy. When an instance of sex discrimination is reported, the university will take action to promptly and equitably investigate the complaint, address its effects, and prevent further discrimination or retaliation.

## **2. Title IX Personnel**

### **2.1 The Applicable Federal Law**

The United States Department of Education (ED), in its revised 34 C.F.R. § 106.8(a), requires institutions like Multnomah University to designate and authorize a Title IX coordinator to meet specific responsibilities as well as to coordinate the institution's overall efforts to comply with Title IX regulations. Additionally, federal regulations require contact information for the Title IX coordinator, including an office address, telephone number, and email address, must be posted on the institution's website, and that provision expressly states that any person may report sexual harassment by using the Title IX coordinator's contact information. Per VAWA mandates, institutional officials who conduct Title IX proceedings must be trained on how to investigate in a manner that "protects the safety of victims" and "promotes accountability."

### **2.2 Multnomah University Reporting Structure**

Any person may report sexual harassment by using the Title IX coordinator's contact information (in person, by mail, by telephone, or by e-mail using the contact information below). Such a report may be made at any time, including non-business hours, by using the telephone, e-mail, or mailing address listed below. Reporting may also be made on an automated voice-mail line (503-251-5333) and designated email address ([titleix@multnomah.edu](mailto:titleix@multnomah.edu)).

Any inquiries regarding this policy should be directed to the Title IX senior coordinator or any of the deputy coordinators identified below. These coordinators will be available to meet with Multnomah community members regarding issues relating to Title IX and this policy.

#### **2.2.1 Title IX senior coordinator**

The Title IX senior coordinator maintains authority over the compliance and adjudication of all Title IX complaints and chairs the Title IX Team (TIXT).

The Title IX senior coordinator is responsible to coordinate dissemination of information and education and training programs to: (1) assist members of the Multnomah community in understanding that all forms of sex discrimination, are prohibited by this policy; (2) ensure that investigators are trained to respond to and investigate complaints; and (3) ensure that faculty, staff, and students are aware of the procedures for reporting and addressing complaints under Title IX.

#### **Title IX Senior Coordinator**

Mr. Grant Burns

Assistant Dean for Residence Life and Community Standards in Student Life

Multnomah University, 8435 NE Glisan Street, Portland, OR 97220

503.251.5340 or [grantburns@multnomah.edu](mailto:grantburns@multnomah.edu)

#### **2.2.2 Deputy coordinators**

Federal regulations allow for the designation of multiple Title IX coordinators, known as deputy coordinators, individuals who are authorized to coordinate the institution's Title IX obligations. At Multnomah, Title IX deputy coordinators have been appointed to help

facilitate the process and management of Title IX-related complaints, investigations, and overall adequate compliance according to Section 4 of this policy.

Deputy coordinators are members of the TIXT. Any student, faculty or staff member can report or discuss any concerns or complaints with any deputy coordinator, although each have been given designation over certain areas of Multnomah University.

Along with the senior coordinator, deputy coordinators are officials with authority to institute corrective measures on the institution's behalf, so notice of sexual harassment or allegations of sexual harassment to these individuals constitutes "actual knowledge." When notified of a Title IX grievance, deputy coordinators are responsible for notifying the senior coordinator of the alleged violation. Deputy coordinators must also ensure the complainant is aware of their rights and available resources, both inside and outside the university, including options for receiving medical attention and filing for legal action.

All the listed deputy coordinators are officed in the following designated locations on the Multnomah University campus at 8435 NE Glisan Street, Portland, OR 97220.

- For athletics: Mike Anderson, Athletic Director  
Lytle Gymnasium  
503-251-5396, mikeanderson@multnomah.edu
- For faculty, administration, and staff: Tracy Moreschi, Director of Human Resources  
Sutcliffe Hall  
503-251-5309, tmoreschi@multnomah.edu
- For safety or security: Joshua Burke, Campus Safety  
Campus Safety Office  
503-251-6498, joshuaburke@multnomah.edu

### **2.2.3 Investigators**

Title IX investigators are specially trained individuals who may be called upon to assist in the investigation of an alleged violation of policy. Investigators will follow the procedures outlined in Section 4. Whenever possible, at least two investigators will work jointly on a grievance and comprise an investigation team. Typically, in a formal grievance process (described in Section 4), the result of the investigative process is an investigation report summarizing relevant information that's made available to the parties and parties' advisors prior to the formal hearing.

At Multnomah University, the following individuals serve in this specialized capacity:

- Carlee Anglin, Student Life and Intercollegiate Athletics Office Manager
- Colton Naill, Head Volleyball Coach

#### **2.2.4 Responsibilities of others**

It is the responsibility of deans, department chairs, directors, faculty and teaching staff, and university personnel responsible for the supervision of students in housing, athletics and other university offerings and programs to:

- Inform employees under their direction or supervision of this policy,
- Notify a Title IX coordinator promptly if they receive reports, witness, or otherwise learn of complaints of sex discrimination and sexual harassment, and
- Implement any corrective actions that are imposed as a result of findings of a violation of this policy.

Additionally:

- It is the responsibility of all employees to review this policy and comply with it.
- It is the responsibility of all students to review this policy and comply with it.
- Any person with knowledge of a violation of this policy is encouraged to report it to a Title IX coordinator.
- After being notified of a possible violation, Multnomah University will take prompt action, including a review of the matter and, if necessary, an investigation and appropriate steps to stop and remedy it as laid out in the procedures of this handbook.

### **3. Definitions and Examples of Various Forms of Sexual Misconduct**

#### **3.1 Sexual Assault**

Sexual assault consists of (a) sexual contact and/or (b) sexual intercourse that occurs without (c) affirmative consent.

a. Sexual contact is:

- Any intentional sexual touching
- However slight
- With any object or body part
- Performed by a person upon another person

Sexual contact includes (a) intentional touching of the breasts, buttocks, groin or genitals, whether clothed or unclothed, or intentionally touching another with any of these body parts; and (b) making another touch you or themselves with or on any of these body parts.

b. Sexual intercourse is:

- Any penetration
- However slight
- With any object or body part
- Performed by a person upon another person

Sexual intercourse includes (a) vaginal penetration by any body part or object; (b) anal penetration by any body part or object; and (c) any contact, no matter how slight, between the mouth of one person and the genitalia of another person.

c. Affirmative consent is:

- Informed (knowing)
- Voluntary (freely and intentionally given)
- Active (not passive), meaning that, through the demonstration of clear words or actions, a person has indicated permission to engage in mutually agreed-upon sexual activity.
- Verbal, meaning that the person who is initiating sexual behavior must receive a verbal yes from the other person before continuing, and that this consent must be ongoing through the sexual encounter. “Yes, and only yes, means yes.”

##### **3.1.1 Factors affecting affirmative consent**

**Force.** Affirmative consent cannot be obtained by force. Force includes (a) the use of physical violence, (b) threats, (c) intimidation, and/or (d) coercion.

- a. Physical violence means that a person is exerting control over another person through the use of physical force. Examples of physical violence include hitting, punching, slapping, kicking, restraining, choking, and brandishing or using any weapon.
- b. Threats are words or actions that would compel a reasonable person to engage in unwanted sexual activity. Examples include threats to harm a person physically,

- to reveal private information to harm a person's reputation, or to cause a person academic or economic harm.
- c. Intimidation is an implied threat that menaces or causes reasonable fear in another person. A person's size, alone, does not constitute intimidation; however, a person's size may be used in a way that constitutes intimidation (e.g., blocking access to an exit).
  - d. Coercion is the use of an unreasonable amount of pressure to gain sexual access. Coercion is more than an effort to persuade, entice, or attract another person to have sex. When a person makes clear a decision not to participate in a particular form of sexual contact or sexual intercourse, a decision to stop, or a decision not to go beyond a certain sexual interaction, continued pressure can be coercive. In evaluating whether coercion was used, the university will consider: (a) the frequency of the application of the pressure, (b) the intensity of the pressure, (c) the degree of isolation of the person being pressured, and (d) the duration of the pressure.

**Incapacitation.** Affirmative consent cannot be gained by taking advantage of the incapacitation of another, where the person initiating sexual activity knew or reasonably should have known that the other was incapacitated. Incapacitation means that a person lacks the ability to make informed, rational judgments about whether or not to engage in sexual activity.

A person who is incapacitated is unable, temporarily or permanently, to give affirmative consent because of mental or physical helplessness, sleep, unconsciousness, or lack of awareness that sexual activity is taking place. A person may be incapacitated as a result of the consumption of alcohol or other drugs, or due to a temporary or permanent physical or mental health condition.

**Responsibility for obtaining affirmative consent.** A person who wants to engage in a specific sexual activity is responsible for obtaining affirmative consent for that activity. Lack of protest does not constitute affirmative consent. Lack of resistance does not constitute affirmative consent. Silence and/or passivity also do not constitute affirmative consent. Relying solely on non-verbal communication before or during sexual activity can lead to misunderstanding and may result in a violation of this policy. It is important not to make assumptions about whether a potential partner is consenting. In order to avoid confusion or ambiguity, participants are encouraged to talk with one another before engaging in sexual activity. If confusion or ambiguity arises during sexual activity, participants are encouraged to stop and clarify a mutual willingness to continue that activity.

Affirmative consent to one form of sexual activity does not, by itself, constitute affirmative consent to another form of sexual activity. Affirmative consent to sexual activity on a prior occasion does not, by itself, constitute affirmative consent to future sexual activity. In cases of prior relationships, the manner and nature of prior communications between the parties and the context of the relationship may have a bearing on the presence of affirmative consent.

Affirmative consent may be withdrawn at any time. An individual who seeks to withdraw affirmative consent must communicate, through clear words or actions, a decision to cease the sexual activity. Once affirmative consent is withdrawn, the sexual activity must cease immediately.

**3.1.2 Guidance on assessing incapacitation.** Multnomah University will utilize the following guidance on assessing incapacitation:

In evaluating affirmative consent in cases of alleged incapacitation, the university asks two questions: (a) “Did the person initiating sexual activity know that the other party was incapacitated?” And if not, (b) “Should a sober, reasonable person in the same situation have known that the other party was incapacitated?” If the answer to either of these questions is “Yes,” affirmative consent was absent and the conduct is likely a violation of this policy.

Incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely as a result of drinking or using drugs. The impact of alcohol and other drugs varies from person to person.

One is not expected to be a medical expert in assessing incapacitation. Although every individual may manifest signs of incapacitation differently, typical signs include slurred or incomprehensible speech, unsteady gait, combativeness, emotional volatility, vomiting, or incontinence. A person who is incapacitated may not be able to understand some or all of the following questions: “Do you know where you are?”, “Do you know how you got here?”, “Do you know what is happening?”, “Do you know whom you are with?”.

Being impaired by alcohol or other drugs is no defense to any violation of this policy.

## **3.2 Sexual Exploitation**

Sexual exploitation is purposely or knowingly doing any of the following:

- Causing the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person’s ability to give affirmative consent to sexual activity;
- Allowing third parties to observe private sexual activity from a hidden location (e.g., closet) or through electronic means (e.g., live-streaming of images);
- Engaging in voyeurism (watching private sexual activity without the consent of the participants or viewing another person’s intimate parts (including genitalia, groin, breasts, or buttocks) in a place where that person would have a reasonable expectation of privacy);
- Recording or photographing private sexual activity and/or a person’s intimate parts (including genitalia, groin, breasts, or buttocks) without consent;
- Disseminating or posting images of private sexual activity and/or a person’s intimate parts (including genitalia, groin, breasts, or buttocks) without consent;
- Prostituting another person; or
- Exposing another person to a sexually transmitted infection or virus without the other’s knowledge.

### **3.3 Intimate Partner Violence**

Intimate partner violence includes any act of violence or threatened act of violence that occurs between individuals who are involved or have been involved in a sexual, dating, spousal, domestic, or other intimate relationship. Intimate partner violence may include any form of prohibited conduct under this policy, including sexual assault, stalking, and physical assault (as defined below).

Intimate partner violence includes “dating violence” and “domestic violence,” as defined by the Violence Against Women Act (VAWA). Consistent with VAWA, Multnomah University will evaluate the existence of an intimate relationship based upon an individual’s statement and taking into consideration the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. Physical assault is threatening or causing physical harm or engaging in other conduct that threatens or endangers the health or safety of any person. Physical assault will be addressed under this policy if it involves sexual or gender-based harassment, intimate partner violence, or is part of a course of conduct under the stalking definition.

### **3.4 Stalking**

Stalking occurs when a person engages in a course of conduct directed at a specific person under circumstances that would cause a reasonable person to fear bodily injury or to experience substantial emotional distress.

Course of conduct means two or more acts, including but not limited to acts in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person’s property. Substantial emotional distress means significant mental suffering or anguish. Stalking includes “cyber-stalking,” a particular form of stalking in which a person uses electronic media, such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact.

### **3.5 Sexual Harassment**

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following: (a) An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct; (b) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the university’s education program or activity; or (c) “sexual assault,” “dating violence,” “domestic violence,” or “stalking” as defined in the Clery Act.

### **3.6 Other relevant terms (in alphabetical order):**

***Actual knowledge*** means notice of sexual harassment or allegations of sexual harassment to Multnomah’s Title IX coordinator or any university official who has authority to institute corrective measures on behalf of the university. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of the university with actual knowledge is the

respondent. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the university. “Notice” as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX coordinator.

To reiterate, the following does *not* qualify an individual as having the authority to institute corrective measures:

- Mere ability or obligation to report sexual harassment
- Ability or obligation to inform a student about how to report
- Being trained in how to report

**Complainant and respondent.** *Complainant* means an individual who is alleged to be the victim of conduct that could constitute sexual harassment. *Respondent* means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

**Deliberately indifferent.** As mentioned in Section 4.1, a university is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances. A university with actual knowledge of sexual harassment in an education program or activity of the university against a person in the United States, must respond promptly in a manner that is not *deliberately indifferent*.

**Education programs or activities**, as mentioned in the earlier definition of sexual harassment (cf. Section 3.5), includes locations, events, or circumstances over which the university exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the university.

**Formal complaint** means a document filed by a complainant or signed by the Title IX coordinator alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the recipient with which the formal complaint is filed. A formal complaint may be filed with the Title IX coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX coordinator and by any additional method designated by the university. 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 recipient) that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Where the Title IX coordinator signs a formal complaint, the Title IX coordinator is not a complainant or otherwise a party under this part, and must comply with the requirements of this part.

**Supportive measures.** As mentioned in Section 4.4.2, supportive measures means nondisciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are

designed to restore or preserve equal access to the university's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the university's educational environment, or deter sexual harassment.

Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The recipient must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures. The Title IX coordinator is responsible for coordinating the effective implementation of supportive measures.

## **4. Report of an Alleged Violation and Its Investigation**

### **4.05 Institutional Obligation to Respond**

A university with actual knowledge of sexual harassment in an education program or activity of the university against a person in the United States, must respond promptly in a manner that is not deliberately indifferent. Stated otherwise, Multnomah's obligation to respond under Title IX is activated when (a) the university has actual knowledge of (b) sexual harassment (c) in an education program or activity (d) against a person in the United States. (See definition of these terms in Section 3.6.)

Although a "formal complaint" is a document that initiates a recipient's grievance process, a formal complaint is not required in order for a university to have actual knowledge of sexual harassment, or allegations of sexual harassment, that activates its legal obligation to respond promptly, including by offering supportive measures to a complainant.

To further differentiate, a report of sexual harassment (but not a formal complaint)

- a. initiates the university's obligation to respond, including offering supportive measures,
- b. however the complainant's identity may be kept confidential from the respondent.

In contrast, a formal complaint

- a. initiates the grievance process,
- b. but cannot be filed anonymously, as the grievance process requires a complainant's physical or digital signature or otherwise indicates that the complainant is the person filing the complaint, and the grievance process requires that complainant's identity be disclosed to the respondent.

The university's response must treat complainant and respondent equitably by

- offering supportive measures to a complaint (with or without formal complaint), and
- following a grievance process that complies with the regulations before imposing any disciplinary sanctions or other actions that are not supportive measures against a respondent

### **4.1 Alleged or Suspected Violations of this Policy**

Beyond its Title IX obligation to respond when there is actual knowledge of sexual harassment, Multnomah is further committed to investigating all possible violations of this and its other conduct policies about which the school knows or reasonably should know (also referred to in this policy as "alleged or suspected violations of this policy"), regardless of whether a complaint alleging a violation of this policy has been filed and regardless of where the alleged conduct occurred. Multnomah's ability to investigate in a particular situation, or the extent of the investigation in any given situation, may be affected by any number of factors, including whether the complainant is willing to file a complaint or to consent to an investigation, the location where the alleged conduct occurred, and Multnomah's access to information relevant to the alleged or suspected violation of this policy. Multnomah is nonetheless committed to investigating all alleged and suspected violations of this policy to the fullest extent possible under the circumstances.

Students, faculty, administrators or staff who have a complaint against a student, faculty, staff member, visitor or other individual involving allegations of sexual discrimination, including harassment (and violence) should contact a Title IX coordinator (see Section 2.2).

Additionally, individuals are strongly encouraged to report alleged incidents of sexual violence immediately to Campus Safety and/or other local law enforcement. Campus Safety personnel will assist and advise regarding the importance of preserving evidence for the proof of a criminal offense and to whom the alleged offense should be reported. However, it is the individual's decision whether or not to file a police report or to pursue civil action against the alleged perpetrator. A Title IX Coordinator, or other responsible party, is obligated to contact the law enforcement agency with jurisdiction over the university when the victim has been exposed to bodily harm.

Individuals will have access to support and referral services on campus (see Section 4.4.2) regardless of whether or not s/he decides to report the incident to local law enforcement

#### **4.2 Initiating a Concern/Time Limitation**

A student, faculty member or staff member who believes that another student, faculty, staff member, visitor or other individual violated this policy, including for retaliation, should contact a Title IX coordinator.<sup>1</sup> All university personnel are encouraged to report any suspected violations of this policy. For more information, see Section 2.

The concern may be raised "informally" or "formally" by filing a *Title IX Grievance Form*. The informal process is not appropriate for cases involving certain alleged sexual violence. A copy of the formal complaint form is attached to the end of this policy, titled *Title IX Grievance Form* (a "grievance" is another word for "complaint").

Regardless if a formal complaint has been filed, the Title IX Coordinator must promptly contact complainant. At that time, the Title IX coordinator should discuss availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain the process for filing a formal complaint.

There is no time limit for reporting prohibited conduct to the university, however, the university's ability to respond may diminish over time as evidence may erode, memories may fade, and individuals may no longer be affiliated with the university. If the respondent is no longer affiliated with the university, Multnomah will provide reasonably appropriate remedial measures, assist the adversely affected party in identifying external reporting options, and take reasonable steps to eliminate prohibited conduct, prevent its recurrence, and remedy its effects.

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<sup>1</sup> A student wishing to file a complaint against another student or employee of Multnomah University that is not related to sex discrimination or harassment should contact the Dean of Students. A student may choose to have informal discussion or formally submit a complaint in writing. All formal complaints must be submitted in writing. Once the complaint has been submitted, the Dean will begin an investigation. If a violation of a community standard has occurred, the complaint may be used as evidence in a disciplinary hearing or may be shared with appropriate staff, faculty, or administrators to help bring resolution to the issue.

### **4.3 Definitions Relating to the Formal Complaint Process.**

Throughout this policy's complaint process at Multnomah University, the following terms may be used. See also the definitions listed in Section 3.6.

**4.3.1 Complaint.** A complaint is an allegation that a student, employee or applicant for admission or employment has been subjected to unlawful discrimination or harassment. The Title IX Grievance Form may be submitted to initiate the formal, written complaint-reporting process. So that Multnomah University has sufficient information to investigate a complaint, the complaint should include: (1) the date(s) and time(s) of the alleged conduct; (2) the names of all person(s) involved in the alleged conduct, including possible witnesses; (3) all details outlining what happened; and (4) contact information for the complainant so that the investigator can appropriately follow up.

As described in Section 3.6, a formal complaint means a document filed by a complainant or signed by the Title IX coordinator alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the recipient with which the formal complaint is filed. A formal complaint may be filed with the Title IX coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX coordinator and by any additional method designated by the university. 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 recipient) that contains the complainant’s physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Where the Title IX coordinator signs a formal complaint, the Title IX coordinator is not a complainant or otherwise a party under this part, and must comply with the requirements of this part.

**4.3.2 Complainant.** As also described in Section 3.6, the complainant, or “reporting party,” is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. In addition to reporting violations to a Title IX Coordinator (see Section 2), complaints may be filed with the U.S. Department of Education’s Office for Civil Rights. All complainants will be provided access to this policy document.

**4.3.3 Respondent.** The respondent is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

### **4.4 General Principles**

**4.4.1 Timing and formality of the process.** The timing of the process depends upon the formality, nature, and scope of the investigation.

**Formal complaint.** While the time it may take to investigate and resolve a Title IX matter will depend on a variety of factors, including the nature and scope of the allegations, a Title IX coordinator will seek to resolve a formal complaint as quickly as reasonably possible. In response to a formal complaint, Multnomah will follow a grievance process that complies with the regulations (cf. Section 4.5.2 of this handbook).

Any provisions, rules, or practices other than those required by the regulations that an institution adopts as part of its grievance process must apply equally to both parties.

**Informal process.** The informal process (cf. Section 4.5.1) to resolve concerns may last up to thirty (30) calendar days depending on the nature and scope of the allegations.

**4.4.2 Supportive and interim protective measures.** Throughout the process, before or after the filing of a formal complain or where no formal complaint has been filed, there are available resources and support. As mentioned in Section 3.6, supportive measures means nondisciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the university's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the university's educational environment, or deter sexual harassment. A list of community resources can be found in Section 6.

**Crisis response.** Multnomah University offers services and external resources to the campus community through Student Life and Campus Safety, many of which may be accessed 24 hours a day, so that a person may choose what s/he would find most helpful and healing. Anyone who has experience sexual violence should seek professional support as soon as possible.

**Support person.** During the investigation of a complaint, both the complainant and the respondent may have a friend or colleague present during the investigatory interview, someone to take notes and advise, but not otherwise participate. The support person cannot be a potential witness in the matter. In cases involving multiple complainants or respondents, the support person cannot be another complainant or respondent. The support person does not serve as an advocate on behalf of the complainant or respondent, may not be actively involved in any proceedings, and s/he must agree to maintain the confidentiality of the process. Witnesses to sex discrimination or sexual harassment and others involved in the investigation are not entitled to have a support person present during investigatory interviews.

**Interim measures.** At any time during the investigation, a Title IX coordinator may determine that supportive interim measures or remedies for the parties involved or witnesses are appropriate. In severe cases, these measures can include placing a member of the community who is accused of violating this policy on suspension or immediate administrative leave during the investigation (see "Emergency removal" below). Depending on the specific natures of the problem, common interim measures and remedies can include, but are not limited to:

- placing an employee on paid or unpaid administrative leave;
- removing a student from campus housing and/or current classes;
- separating the parties or placing limitations on contact between the parties;
- modifying course schedules or workplace arrangements, issuing a "no contact" order;
- suspension;

- providing an escort to ensure that the complainant can move safely between classes and activities;
- ensuring that complainant and respondent do not attend the same classes;
- moving the complainant or alleged perpetrator to a different residence hall;
- providing counseling services;
- providing medical services;
- providing academic support services, such as tutoring; arranging for the complainant to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the complainant's academic record; and
- reviewing any disciplinary actions taken against the complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the complainant being disciplined.

***Emergency removal.*** Multnomah University may remove a respondent from its education program or activity on an emergency basis if the university:

- undertakes an individualized safety and risk analysis;
- determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal; and
- provides the respondent with notice and an opportunity to challenge the decision immediately following the removal

Additionally, non-student employees may be placed on administrative leave during grievance process.

**4.4.3 Pending criminal investigation.** Some instances of sexual misconduct may also constitute criminal conduct. In such instances, the complainant is strongly encouraged to report alleged incidents immediately to the department of Campus Safety and/or other local law enforcement. Campus Safety personnel will assist and advise regarding the importance of preserving evidence for the proof of a criminal offense and to whom the alleged offense should be reported. It is the individual's decision whether or not to file a police report or to pursue civil action against the alleged perpetrator, although the university does have a reporting obligation in the case of bodily harm.

Any pending criminal investigation or criminal proceeding may have some impact on the timing of Multnomah University's Title IX investigation, but the university will commence its own investigation as soon as is practicable under the circumstances. Multnomah reserves the right to commence and/or complete its own investigation independently of the completion of any other criminal investigation or proceeding.

**4.4.4 Impartiality, fairness, and equitable treatment.** Multnomah University is committed to fairness in its investigation and handling of alleged violations and seeks to allow for the prompt and equitable resolution of all complaints. As such, the university commits to a process that seeks to fairly treat all parties involved in an investigation. This includes the elicitation of written statements from all parties. As part of an

investigation, an investigator of complaints will seek separate interviews with the complainant, the respondent, and any witnesses to the greatest extent possible.

Multnomah University further commits to treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment had been made. Such remedies must be designed to restore or preserve equal access to the university's education program or activity, and may include the same individualized services as "supportive measures." Furthermore, remedies need not be "non-disciplinary" or "non-punitive" and do not need to avoid burdening the respondent. Multnomah's equitable treatment also includes following its grievance process that complies with regulations before imposing disciplinary sanctions or other actions that are not supportive measures.

In the case of a formal grievance, the Title IX coordinator, investigator, decision-maker, or facilitator of informal resolution process must have no conflicts of interest nor bias, neither for or against complainants or respondents generally, nor for or against an individual complainant or respondent.

Furthermore, fairness and impartiality include a presumption of non-responsibility, reasonably prompt timeframes (including timeframes for filing and resolving appeals and informal resolution processes), and the provision of a range of possible sanctions and remedies (or list of possible sanctions and remedies). In the case of the formal grievance process, both sides will have equal opportunity to present fact, expert witnesses, and inculpatory and exculpatory evidence.

Prompt timeframes includes allowance for temporary delay or extension of timeframes for good cause, which may include:

- Absence of parties, a party's advisor, or witnesses
- Concurrent law enforcement activity
- Need for language assistance or accommodations of disability

Although some timeframes are set by the regulations, the university agrees to provide written notice to parties of the delay or extension and the reason for it.

In the interests of fairness, the complainant or respondent may appeal the determination by submitting written objections to the Title IX senior coordinator within ten (10) calendar days of the receipt of the determination (see Section 4.5).

A Title IX coordinator shall discharge his or her obligations under these complaint-resolution procedures fairly and impartially. If a Title IX coordinator determines that s/he cannot apply these procedures fairly and impartially because of the identity of a complainant, respondent, or witness, or due to any other conflict of interest, the Title IX coordinator shall designate another individual to administer these procedures.

**4.4.5 Privacy and confidentiality.** Because of laws relating to reporting and other state and federal laws, Multnomah University cannot fully guarantee confidentiality to those who make complaints or participate in the investigation process; however, the university will make reasonable and appropriate efforts to preserve the legitimate privacy and

reputational interests of those involved and protect the confidentiality of information when investigating and resolving a complaint. Materials and information prepared or acquired under Title IX procedures will be shared only with those who have a legitimate need to know.

In the event a complainant requests confidentiality or asks that a complaint not be investigated, Multnomah University will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. If a complainant insists that his or her name not be disclosed to the alleged perpetrator, the university's ability to respond and take action may be limited. Furthermore, Multnomah reserves the right to initiate an investigation despite a complainant's request for confidentiality in limited circumstances involving serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the Multnomah University community. Multnomah may pursue an allegation through internal disciplinary procedures without the cooperation of the complainant. In such instances, Multnomah will inform the complainant of its obligation to address the issue.

Disclosure of information regarding a Title IX case may also be made if it is permitted by law and a Title IX coordinator determines: (a) that such disclosure is necessary to protect the health, safety, or well-being of members of the Multnomah community; or (b) that such disclosure advances the interests of those involved in the process and/or Multnomah University and outweighs the interest in confidentiality. Furthermore, Multnomah University may not restrict the ability of either party to discuss the allegations or to gather and present relevant evidence.

The degree to which confidentiality can be protected also depends upon the professional role of the person being consulted. Because all employees of the university are responsible for reporting possible Title IX violations to a Title IX coordinator, the professional being consulted should make these limits clear before any disclosure of facts. An individual can speak confidentially with certain persons in legally protected roles. They include counselors at the Multnomah University Counseling Center, medical clinicians, clergy and sexual assault counselors. Furthermore, ED has added a provision (Section 106.45[b][1][x]) to ensure that information protected by a legal recognized privilege is not used during a grievance process. Exceptions to maintaining confidentiality are set by law; for example, physicians and nurses who treat a physical injury sustained during sexual assault are required to report to law enforcement. Also, physicians, nurses, psychologists, psychiatrists, professional counselors, school employees, and social workers must report a sexual assault committed against a person under 18 years of age to a child protective agency. Information shared with other individuals is not legally protected from being disclosed.

**4.4.6 Prohibition against retaliation.** Retaliation means any adverse action intentionally taken against a person for making a good faith report of prohibited conduct or participating in any proceeding under this policy. Retaliation includes intentionally threatening, intimidating, harassing, coercing or any other conduct that would discourage a reasonable person from engaging in activity protected under this policy. In the context of a live hearing, retaliation may be present if one party does something to wrongfully procure absence of a party or witness. In such instances, the university will work to

remedy that situation. Retaliation may be present even where there is a finding of “No Violation” on the allegations of prohibited conduct. Retaliation does not include good faith actions lawfully pursued in response to a report of prohibited conduct.

Retaliation and threats of retaliation against any person, either for alleging discrimination prohibited by Title IX or for cooperating in a Title IX investigation or grievance, is strictly prohibited and should be reported to a Title IX coordinator. Any person who engages in retaliation will be subject to adjudication.

**4.4.7 Instances involving bodily harm.** In compliance with ORS § 146.750(3), Multnomah must report physical injuries to an appropriate law-enforcement agency. Consequently, if a Title IX coordinator receives a report of harassment or assault involving bodily harm, the Title IX coordinator will contact the local law-enforcement agency with jurisdiction over Multnomah University.

**4.4.8 Amnesty provisions.** Any individual (including a witness, or a third party) who has broken a university policy but who shares information in the interest of any individual’s health and safety will not be subject to disciplinary action by the university, provided that they did not harm or place the health or safety of any other person at risk. The university may require an educational conference where support, resources, and educational counseling options may be discussed.

Multnomah University desires to eliminate barriers for students who may be hesitant to seek medical or emergency help or report the incident to university officials because they fear being held accountable for policy violations (e.g., drinking alcoholic beverages, sexual activity). To encourage reporting, Multnomah holds a policy of offering students who are accessing help for themselves or others conditional immunity from being charged with policy violations related to the particular incident. While there may be no community accountability sanctions for these individuals, the university may provide elements of help, support and education.”

**4.4.9 Relationship to academic freedom.** While Multnomah University is committed to the principles of free inquiry and free expression, sex discrimination and sexual harassment are neither legally protected expression nor the proper exercise of academic freedom. As such, Multnomah University agrees with the [statement](#) of the American Association of University Professors (AAUP) that intimidation and harassment are inconsistent with the maintenance of academic freedom on campus and are therefore strictly prohibited.

## 4.5 Investigation

**4.5.1 Informal procedures of an investigation.** In many instances, mediation, counseling, advice, or informal discussion may be useful in resolving concerns about allegations of discrimination prohibited by Title IX.

Where the facts alleged in a formal complaint are not contested, or where the respondent has admitted, or wishes to admit responsibility, or where both parties want to resolve the case without a completed investigation or live hearing, federal regulations allow a

university to facilitate an informal resolution of the formal complaint that does not necessitate a full investigation or live hearing.

Any time prior to determination, Multnomah may facilitate an informal resolution process, such as mediation, if the university provides both parties with written notice disclosing (a) allegations, (b) requirements of the informal resolution process including circumstances when it precludes the parties from resuming a formal complaint for the same allegations (however, any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint), and (c) consequences resulting from participating in the informal resolution process, including records that are maintained and could be shared. Multnomah will then obtain both parties' voluntary written consent to informal process.

Multnomah University may not offer informal resolution unless a formal complaint is filed, and the university may never require the parties to participate in an informal resolution process. Furthermore, Multnomah may not condition enrollment/continuing enrollment, employment/continuing employment, or enjoyment of any other right on waiver of the right to an investigation and adjudication of formal complaint. The university also may not offer or facilitate informal resolution to resolve allegations that an employee sexually harassed a student.

In working to informally resolve the matter, a Title IX investigator may normally interview the complainant and, as appropriate, others who may have knowledge of the facts underlying the grievance. At any point, including while the informal process is ongoing or afterward, the complainant may elect to end the informal process in favor of filing a formal grievance.

Multnomah University has established the following informal process to resolve charges of unlawful discrimination or harassment. This informal procedure is not appropriate for cases involving alleged sexual violence. Whether or not the complainant files a formal complaint and/or the parties reach a resolution, if a Title IX coordinator determines that circumstances so warrant, the Title IX coordinator may initiate a formal investigation and take appropriate actions as necessary to fully remedy any harm that occurred as a result of unlawful discrimination or harassment and to prevent any further unlawful discrimination or sexual harassment.

The Title IX coordinator shall meet with the concerned individual to:

- understand the nature of the concern;
- give the complainant a copy of the Multnomah University policy and procedure concerning unlawful discrimination and harassment and inform complainant of his or her rights under any relevant complaint procedure or policy;
- assist the individual in any way advisable.

If deemed appropriate, a Title IX coordinator will meet with the respondent to inform him/her of the nature of the concern. If the parties agree to a proposed resolution that does not include disciplinary action, the resolution shall be implemented and the informal

process shall be concluded. A letter summarizing the informal investigation and the resolution agreed upon shall be sent to the complainant and the respondent and kept as part of the record.

The Title IX coordinator will keep a written log of discussions and a record of the resolution. This information shall become part of the official investigation file if the complainant initiates a formal complaint. A letter summarizing the informal investigation and the resolution agreed upon shall be sent to the complainant and the respondent and kept as part of the record.

This informal process may be changed to a formal process if it reveals the possibility of sexual violence or other misconduct that cannot be properly addressed by mediation.

**4.5.2 Formal procedures of an investigation.** In response to a formal Title IX complaint, institutions must follow a grievance process that complies with federal regulations. Where informal complaint procedures are not possible or appropriate or fail to satisfactorily resolve the matter, a Title IX coordinator will further consider the formal written complaint. Please note that a formal complaint may be dismissed if the Title IX coordinator determines that the complaint on its face is frivolous, not credible, clearly without merit, or outside the scope of these procedures. Additionally, a complainant has the right to end the formal process at any time in favor of transitioning to an informal process if the Title IX coordinator agrees that that process will be sufficient to remedy the issue.

**Standard of evidence.** At Multnomah University, the standard used to determine whether this policy has been violated is whether it is more likely than not that the accused violated this policy. This is often referred to as a “Preponderance of Evidence” standard, and is the same standard for formal complaints against students as employees. In the case of a live hearing of a formal Title IX grievance process, the institutional decision-maker shall objectively evaluate relevant evidence according to a preponderance-of-evidence standard in making a written determination. This includes an objective evaluation of all relevant evidence in the investigation report, including inculpatory and exculpatory evidence, and credibility determinations not based on status as complainant, respondent, or witness.

**Commencement of the investigation.** Upon receiving a formal complaint—either when a complainant files or the Title IX coordinator signs a formal complaint—Multnomah University will provide written notice to known parties, including:

- Notice of the university’s grievance process, including any informal resolution process
- Notice of the allegations, including sufficient details known at the time and with sufficient time to prepare response before initial interview
- Identities of the parties involved, if known
- Conduct allegedly constituting sexual harassment
- Date and location of the alleged incident, if known

As soon as practicable once a formal complaint is made, but not later than seven (7) working days after the complaint is made, the Title IX coordinator will initiate an investigation by a trained investigator(s).

During this phase, the burden of proof and gathering evidence is on the institution, not on the parties, who will have equal opportunity to present fact and expert witnesses and other inculpatory and exculpatory evidence. As mentioned earlier, the university may not restrict ability of either party to discuss the allegations or to gather and present relevant evidence. The university also allows both parties an advisor of choice, who may be but is not required to be an attorney, but may establish equal restrictions on advisors' participation.

***Content of the investigation.*** As part of the investigation, Title IX officials will provide written notice of meetings to parties whose participation is invited/expected, including date, time, location, participants, and purpose of all hearings, interviews, or other pertinent meetings with sufficient time for the party to prepare to participate.

The investigator/investigation team may seek separate interviews with the complainant, respondent, and any witnesses to the greatest extent possible and secure as much directly related evidence as possible. To help ensure a prompt and thorough investigation, complainants are encouraged to provide as much of the following information as much as possible, including the following:

- The name, department, and position of the person or persons allegedly causing the discrimination, harassment or retaliation.
- A description of any relevant incident(s), including the date(s), location(s), and the presence of any witnesses.
- The alleged effect of the incident(s) on the complainant's academic standing, educational benefits or opportunities, position of employment, salary, employee benefits, promotional opportunities, or other terms or conditions of employment.
- The names of other students or employees who might have been subject to the same or similar discrimination, harassment or retaliation.
- Any other information the complainant believes to be relevant to the alleged discrimination, harassment, violence, or retaliation.

The respondent also is encouraged to provide as much information as possible in connection with the investigation. During the investigation, the complainant will have the opportunity to describe his or her allegations and present supporting witnesses or other evidence. The respondent will have the opportunity to respond to the allegations and present supporting witnesses or other evidence. The investigator/investigation team will review the evidence presented and, depending upon the circumstances, may interview others with relevant knowledge, review documentary materials, and take any other appropriate action to gather and consider information relevant to the complaint. All parties and witnesses involved in the investigation are expected to cooperate and provide complete and truthful information.

Prior to completion of investigation report, the investigator must provide equal opportunity for both parties to inspect and review any evidence obtained that is directly

related to the allegations. This includes evidence upon which the institution does not intend to rely in reaching a determination and inculpatory or exculpatory evidence whether obtained from a party or other source.

Examples of directly related evidence collected from the parties may include text messages, emails, social-media posts and messages, and photos and videos. Other evidence may include police reports, security footage, wifi access point records, and party/witness interviews, possibly including transcripts, copies of recordings, or summaries of directly related evidence from interviews. Additionally, directly related evidence may also include prior sexual history (if directly related to the allegations) and, with consent or waiver of privilege, treatment records or privileged information. In the collection of evidence, the investigator is permitted to redact information not directly related or otherwise barred (a determination made by the Title IX coordinator and investigator).

Because parties should be aware of the existence of all directly related evidence so as to argue its relevance, the university must send this evidence to the party and party's advisor in hard copy or electronic format, allowing the party at least 10 days to submit a written response. The investigator must consider that written response before completing the investigation report.

In sharing directly related evidence, the university may require a signed non-disclosure agreement stipulating that parties (and advisors) only use the shared evidence and investigation report for the purposes of the grievance process. Further dissemination or disclosure of these materials is forbidden.

The resulting investigation report must fairly summarize relevant evidence, and be sent to both parties (and advisors) in electronic or hard-copy format at least 10 days prior to the live hearing, allowing parties an opportunity to respond to report in writing. Furthermore, all evidence must be made available at any hearing. At the conclusion of its investigation, the investigator/investigation team will also submit its investigation report to the university's decision-maker in advance of its live hearing.

***Preparation for the live hearing.*** Within its formal grievance process, following the investigative phase, Multnomah University will provide a live hearing before a university decision-maker. The decision-maker will review the formal complaint, the notice to parties, the investigative report, and, if appropriate, parties' responses to (a) directly-related evidence and/or (b) the investigation report. Also prior to the hearing, the decision-maker will identify and consider questions, topics, and anticipated relevancy issues that may surface during the hearing. The decision-maker will also determine the hearing format and arrange necessary video technology to enable a live hearing in separate rooms

In preparation for the hearing, the decision-maker will identify witnesses who are relevant to the decision (based on investigation report and other information reviewed) and these witnesses are to be made available for cross-examination at the hearing. Additionally, both parties may be allowed to call a limited number of witnesses beyond those identified by the decision-maker (with flexibility to modify this provision in

unusual circumstances). However, all witnesses must have been previously identified during the investigation (even if investigator declined to interview that witness)

Prior to the hearing, the decision-maker will request that both parties submit cross-examination questions in advance. In the interest of expediting the hearing, the decision-maker will then review these questions and determine whether any will be screened out for relevance, explaining the rationale for any exclusions. Although it's encouraged, there is no negative consequence for not submitting questions in advance or only submitting some questions in advance.

***During the live hearing.*** At the live hearing, each party may only be accompanied by an advisor and other persons for reasons "required by law." A person assisting a party with a disability, or a language interpreter, may attend because presence is required by law and/or necessary to conduct the hearing.

In order to ensure that each party is provided an advisor, Multnomah requests that the parties inform the university in advance whether they have an advisor. If a party does not have an advisor at the hearing, even if the party stated that they would have one present, the university is still required to provide an advisor. In order to avoid unnecessary delays to the live hearing, the university may elect to have an advisor for each party on standby.

The role of a school-appointed advisor is limited to relaying a party's questions, and requires no particular skills, qualifications, or training. The school-appointed advisor does not need to be neutral or avoid conflicts of interest. If a party refuses to work with an assigned advisor, that party forfeits his/her right to cross examination.

In the case of a party or witness who does not appear at the live hearing, the decision-maker cannot rely on any statements from a party or witness who does not submit to cross-examination. Furthermore, failure to answer one question during the hearing (unless question came from decision-maker) constitutes a failure to submit to cross-examination. This exclusion of party/witness testimony applies even if disability or death is the reason the person did not submit to cross-examination. Additionally, statements that cannot be considered include statements in investigation report or any other source (police report, medical exam, text messages, witness accounts, etc.)

However, in the case of a party or witness who does not appear at the hearing, that party's advisor may still conduct cross-examination on behalf of the party, even if the party is not present.

Although Multnomah University encourages full participation by all parties, the university cannot coerce unwilling participant, including any requirement or discipline related to participation.

During the hearing, the decision-maker may hear arguments regarding relevancy of a question on the spot or may tell parties to reserve arguments for appeal. The decision-maker must allow question if relevant, even if misleading or assumes facts not in evidence. However, the decision-maker can establish a rule that duplicative questions are not relevant and may exclude questions with caution. Additionally, the decision-maker may establish other rules that apply equally to both parties, such as:

- Cross-examination must be respectful, non-abusive, not intimidating
- Limit evidence at hearing to evidence that was gathered or presented as part of the investigation (or otherwise prior to the hearing)
- Whether investigator may be called as a witness
- Process for making objections to the relevance of questions and evidence
- Other hearing procedures, such as opening or closing statements by parties or advisors
- Reasonable time limitations on hearings

However, some procedural rules are not allowed, and the decision-maker may not prohibit a party from conferring with his or her advisor during the hearing. Additionally, the decision-maker cannot prohibit character evidence, lie detector test results, evidence that is unduly prejudicial, or evidence of prior bad acts, although the decision-maker may determine how much weight to give such evidence.

During the live hearing, at the request of either party, Multnomah will provide for the live hearing to occur with the parties located in separate rooms with video technology enabling the decision-maker and parties to simultaneously see and hear the party or witness answering questions. Hearing may be conducted with all parties physically present in the same geographic location, or at the recipient's discretion, any or all parties, witnesses, and other participants may appear at the hearing virtually, with technology enabling participants simultaneously to see and hear each other. Multnomah will also create audio or audiovisual recording or transcript of any live hearing held and make it available to the parties for inspection and review.

At the conclusion of the live hearing, the decision-maker will issue a written determination that includes the following elements:

- Identification of the allegations potentially constituting sexual harassment.
- Procedural steps since complaint (e.g., notices to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, hearings held).
- Findings of fact as presented in the investigation report and live hearing.
- Conclusion regarding application of code of conduct to the facts.
- Statement of and rationale for the result as to each allegation, including a determination of responsibility, a disclosure of any disciplinary sanctions imposed on the respondent, and whether remedies may be provided to the complainant.
- Regarding remedies, the university will, as necessary, take appropriate action to: (a) stop the policy violation, (b) prevent the recurrence of the violation, and (c) remedy the effects of the violation. For example, the Title IX coordinator may assure that appropriate changes to housing, academic programs or working conditions are implemented, and persons may be expelled or discharged from the university. While the action taken by the Title IX coordinator may impact third parties, such action is not intended to be punitive (or constitute disciplinary penalty) with respect to these third parties.
- Additional information on appeals (cf. Section 4.6).

This written notification will be simultaneously delivered to both parties, becoming final on the date the parties receive the written determination of the appeal or the date on which an appeal would no longer be timely.

***Rights of complainants and respondents.*** During the investigation and resolution of a complaint, the complainant and respondent shall have equal rights. They include:

- Equal opportunity to present witnesses and other relevant evidence
- Similar and timely access to all information considered by a Title IX coordinator in resolving the complaint
- Equal opportunity to review any statements or evidence provided by the other party
- Equal access to review and comment upon any information independently developed by the Title IX coordinator
- Confidentiality of the complainant, respondent, and any witness except as may be permitted by FERPA, as required by law, or to carry out the grievance process

Complainants have the specific following rights:

- The opportunity/right to speak on one's own behalf;
- To be accompanied by an advisor or support person who may take notes and advise the complainant, but not otherwise participate;
- To present witnesses who can speak about the alleged conduct at issue;
- To present other evidence on one's own behalf;
- To review any written statement that will be offered by the accused at a hearing or proceeding prior to the time that it is offered (to the greatest extent possible and consistent with FERPA or other applicable law);
- To be informed of the outcome of the investigation;
- And to appeal the outcome of the investigation.

Respondents have the specific following rights:

- The right to a written explanation of the alleged violations of this policy;
- The opportunity/right to speak on one's own behalf;
- To be accompanied by an advisor or support person who may take notes and advise the accused, but not otherwise participate;
- To present witnesses who can speak about the alleged conduct at issue;
- To present other evidence on one's own behalf;
- To review any written statement that will be offered by the complainant at a hearing or proceeding prior to the time that it is offered (to the greatest extent possible and consistent with FERPA or other applicable law);
- To be informed of the outcome of the investigation;
- And to appeal the outcome of the investigation.

## **4.6 Appeals**

**4.6.1 Grounds of appeal.** An appeal is not fundamentally a reconsideration of factual evidence or a rehearing of witnesses, but a consideration of the fairness or due process of the original hearing. Therefore, disagreement with the findings of a hearing is not sufficient grounds for appeal. The complainant or respondent may appeal the resolution of a complaint only on the following grounds:

- There was a procedural irregularity that affected the outcome of the matter.
- There is new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter. Additionally, there is a substantial likelihood that this newly discovered information, not available at the time evidence was presented, would result in a different decision.
- The Title IX coordinator, investigator, or decision-maker had a demonstrated conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.
- The decision was contrary to the substantial weight of the evidence.
- The punishment or the corrective action imposed is disproportionate to the offense

**4.6.2 Method of appeal.** The complainant or respondent may appeal the determination by submitting written objections to the Title IX senior coordinator within ten (10) calendar days of the receipt of the written determination. The appeal must be in writing and contain the following:

- Name of the complainant;
- Name of the respondent;
- A statement of the resolution of the complaint, including corrective action, if any;
- A detailed statement of the basis for the appeal, including the specific facts, circumstances, and argument in support of it; and
- Requested action, if any.

This letter of appeal will then be forwarded by the Title IX senior coordinator to an appeal officer (cf. Section 4.6.3). The university will notify the other party in writing when an appeal is filed and provide both parties reasonable, equal opportunity to submit written statement in support of, or challenging, the outcome. The appellant may request a meeting with the appeal officer, but the decision to grant a meeting is within the officer's discretion. However, if a meeting is granted, then the other party will be granted a similar opportunity.

**4.6.3 Appeal officer and appellate committee.** The appeal officer of a previous Title IX determination must be someone different than the Title IX coordinator, investigator and decision-maker at the live hearing. The appeal officer must have no conflict of interest or bias.

Multnomah University's current appeal officer is its vice president of enrollment management. If the appeal officer determines there is significant grounds for an appeal,

s/he will select a faculty member and a staff member, both of whom must have received Title IX training. These three individuals will comprise an appellate committee.

**4.6.4 Consideration and resolution of the appeal.** Within thirty (30) working days of receiving the appeal, the appeal officer/appellate committee shall consider the written statements presented according to the grounds of appeal described in Section 4.6.1. This includes a review and evaluation of the original investigative report, findings, and actions taken. The appeal officer/appellate committee will conclude in a written statement if (a) the grounds for appeal are substantiated, (b) there is any change to any aspect of the original outcome, and (c) rationale for this decision. In the case of an appellate committee, this conclusion may be reached by majority vote. The appeal officer/appellate committee shall simultaneously deliver the written decision and rationale to the parties, which shall be the final decision of Multnomah University in the matter.

## **5. Disciplinary/Corrective Actions and Sanctions for Violations of this Policy**

At Multnomah University, the outcome of an investigation into a complaint will be determined based on the totality of the evidence using a preponderance of the evidence standard (see “Standard of Evidence” in Section 4.5.2). If the preponderance of the evidence does not support a finding that the incident occurred, then the complaint is resolved in favor of the respondent. If, however, the preponderance of the evidence supports that sex discrimination/misconduct occurred, the actions taken by Multnomah will include those necessary to maintain an environment free from discrimination/misconduct and to protect the safety and well-being of the complainant and other members of the university community. Such actions will also include reasonable steps to correct the effects of such conduct on the complainant and others and to prevent the recurrence of discrimination, harassment, and/or retaliation. If sanctions are deemed necessary, they may include: no-contact orders, classroom or housing reassignment, the provision of counseling or other support services, training, and discipline for the perpetrator, termination, expulsion, or other appropriate institutional sanctions.

Any violation of this policy involving students or faculty and staff of Multnomah University is subject to the policy and procedures as stated in this document and is not governed or preempted by any other employee or student handbook or policy. Multnomah will take reasonable steps to prevent the recurrence of any harassment or other discrimination and to remedy the discriminatory effects on the complainant (and others, if appropriate).

Examples of the range of potential sanctions/corrective actions that may be imposed with respect to students may be found in the current edition of the *Multnomah University Student Handbook*. Comparable information with respect to employees can be found in the *Faculty Handbook, Staff Handbook, Student Employment Handbook*, and in the human resources (HR) documents of Multnomah University. Multnomah also may take any other corrective action that it deems appropriate under the circumstances.

Guests and other third parties who are found to have violated this policy will be subject to corrective action deemed appropriate by Multnomah University, which may include removal from the campus and termination of any applicable contractual or other arrangements.

In instances where Multnomah University is unable to take disciplinary action in response to an alleged violation of this policy because a complainant insists on confidentiality or for some other reason, Multnomah will nonetheless pursue other steps to limit the effects of conduct that violates this policy and prevent its recurrence for the safety of the complainant and the overall community.

## **6. Prevention, Intervention, and Educational Programming**

Because Multnomah University recognizes that the prevention, intervention, and education related to sex discrimination, sexual harassment, and sexual violence/assault are important, it offers resources and educational programming to a variety of groups such as campus personnel, incoming students and new employees participating in orientation, and members of student organizations. Among other elements, Title IX training will cover relevant definitions, procedures, and sanctions; will provide safe and positive options for bystander intervention; and will provide risk reduction information, including recognizing warning signs of abusive behavior and how to avoid potential attacks. To learn more about Multnomah University education resources, please contact a Title IX coordinator, Student Life, or Campus Safety.

The needs of someone who has been a victim of sexual violence vary from person to person and may vary over time. Multnomah University offers services and external resources, many of which may be accessed 24 hours a day, so that a person may choose what she or he would find most helpful and healing. Multnomah University urges anyone who has been a victim of sexual violence to seek professional support as soon as possible to minimize and treat physical harm, assist with processing the unique and complex emotional aftermath, and help preserve and understand options for legal recourse including criminal prosecution and/or civil litigation. Even if the victim does not wish to report the event to the police or pursue civil litigation or formal university action, seeking medical attention as soon as possible is important. At any point that an individual is ready to come forward, Multnomah is prepared to help her or him.

Multnomah University primarily offers prevention and intervention resources to the campus community through its Student Life and Campus Safety departments. Additional community resources include:

Multnomah University Counseling Center, 503.251.5311  
Joseph C. Aldrich Student Center, 2nd floor

Multnomah Campus Safety Department: x6499 Emergency Response Multnomah external emergency line: 503.251.6499

National Sexual Assault Hotline: 1-800-656-HOPE

Sexual Assault Resource Center  
24-Hour Response Line: 503.640.5311

Local hospitals that have a SART (Sexual Assault Response Team):

Providence Medical Group  
Portland Providence Access Triage  
503-214-9235  
4805 NE Glisan St.  
Portland, OR 97213

In delivering its educational programming, Multnomah University recognizes obligations imposed by federal regulatory entities (see Section 1). Thus, in compliance with VAWA, Multnomah University's educational training programs include:

- A statement that the institution prohibits those offenses.
- The definition of those offenses in the applicable jurisdiction.
- The definition of consent, with reference to sexual offenses, in the applicable jurisdiction.
- "Safe and positive" options for bystander intervention an individual may take to "prevent harm or intervene" in risky situations.
- Recognition of signs of abusive behavior and how to avoid potential attacks.
- Ongoing prevention and awareness campaigns for students and faculty on all of the above.

Similarly, ED's Office for Civil Rights (OCR) recommends developing or utilizing educational materials on sexual harassment and violence, which should be distributed to students during orientation and upon receipt of complaints, as well as widely posted throughout school buildings and residence halls, and which should include:

- what constitutes sexual harassment or violence
- what to do if a student has been the victim of sexual harassment or violence
- contact information for counseling and victim services on and off school grounds
- how to file a complaint with the school
- how to contact one of the school's Title IX Coordinators
- what the school will do to respond to allegations of sexual harassment or violence, including the interim measures that can be taken

Furthermore, OCR requires schools to create a committee of students and school officials to identify strategies for ensuring that students:

- know the school's prohibition against sex discrimination, including sexual harassment and violence
- recognize sex discrimination, sexual harassment, and sexual violence when they occur
- understand how and to whom to report any incidents
- know the connection between alcohol and drug abuse and sexual harassment or violence
- feel comfortable that school officials will respond promptly and equitably to reports of sexual harassment or violence.

Multnomah University desires that its students and campus be characterized as a safe place to grow in the Word of God. Effective and clear communication about expected behavior and consequences resulting from violations or prohibited activities is a crucial step in the process toward this goal. For more information about Multnomah's current schedule and offerings of trainings, please contact Student Life.

Multnomah University



Title IX Grievance Form

Please provide the following information:

Your name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ (home/office) \_\_\_\_\_ (cell)

Email: \_\_\_\_\_ Preferred method of contact: \_\_\_\_\_

Are you:

- Undergraduate Student
- Graduate Student
- Staff
- Faculty
- Other (please specify) \_\_\_\_\_

Date of the event(s): \_\_\_\_\_ Location of the event(s): \_\_\_\_\_

Describe in as much detail as possible the event(s) that occurred (attach additional sheets if necessary). Please also include:

- The name(s) of all parties involved
  - The name(s) of any witnesses or individuals who may have knowledge of the event(s)
- 
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What action/remedy are you seeking?

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Return to:

Title IX Team | Dept. of Student Life  
Multnomah University | 8435 NE Glisan Street | Portland, OR 97220

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For office use only: \_\_\_\_\_ Date received \_\_\_\_\_ Received by (initials) \_\_\_\_\_

