

Supersedes: 06/13/2017	<b>SECTION:</b> Academic and Student Affairs
<b>POLICY AND PROCEDURE MANUAL MERCY COLLEGE OF OHIO, TOLEDO, OHIO</b>  Signature on file  Signature: Dr. Susan Wajert, President	<b>CODE NO.</b> 522
	<b>SUBJECT:</b> Title IX, Violence Against Women and Campus SaVE Policy
	<b>DATE ORIGINATED:</b> 09/08/2015
	<b>DATE BOARD COMMITTEE APPROVED:</b> 08/21/2018
	<b>DATE BOARD APPROVED:</b> 09/11/2018
	<b>DATE OF NEXT REVIEW:</b> 2021 July 1-31

## **Title IX, Violence Against Women and Campus SaVE Policy**

### **PURPOSE:**

Mercy College of Ohio does not discriminate on the basis of sex, gender, or sexual orientation in its educational programs and activities. Mercy College is committed to building and preserving a community in which its members can learn, work, live, and conduct business together free from all forms of sexual misconduct exploitation, intimidation, harassment, and violence. This policy addresses the ten areas a sexual misconduct policy should address according to the 2014 White House Task Force to Protect Students from Sexual Misconduct as outlined on the [www.notalone.gov](http://www.notalone.gov) website.

### **SCOPE:**

This policy addresses the requirements of Title IX of the Education Amendments of 1972, a federal law prohibiting sex discrimination in federally-funded education programs and activities. This policy applies to all students, employees, and third-party vendors on campus, including visitors and guests. Title IX states as follows:

No persons 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.

Discrimination on the basis of sex includes sex discrimination, sexual harassment, sexual assault, sexual violence, and sexual exploitation/misconduct (as defined below). Title IX prohibits sex discrimination in both the educational and employment settings, so this policy applies to administration, faculty, staff, and students regardless of sexual orientation or gender identity and also applies to third parties.

This policy also addresses the requirements of the Campus Sexual Violence Elimination Act, or Campus SaVE Act, a 2013 amendment to the federal Jeanne Clery Act. The SaVE Act addresses sexual violence in the form of sexual assault, as well as the crimes of domestic violence, dating violence, and stalking.

### **POLICY:**

Mercy College of Ohio encourages victims of sexual assault and violence to talk to the Title IX Coordinator, Deputy Title IX Coordinator or Counselor at the institution about what happened,

so victims can get the support they need and the College can respond. Different employees at the College have different abilities to maintain a victim's confidentiality. For complete details, please refer to the College's **Confidentiality Policy**.

### **Minors**

Students under the age of 18 may enroll full or part-time at Mercy College of Ohio. In addition to having students who are minors enrolled, Mercy College hosts minors as guests and as participants in a variety of programs. In accordance with Mercy College of Ohio policy 100-174 (Minors on Campus) and as well as Ohio law, any employee who knows or has reasonable cause to suspect that a minor has been subjected to abuse or neglect, may be subjected to abuse or neglect, or faces a threat of abuse or neglect shall immediately make a report to the appropriate officials (please refer to Mercy College policy 100-174 for options). In certain instances, mental health professionals, counselors, clergy and law enforcement are imposed to report certain crimes involving minors, and abuse, to appropriate officials as well. Further, all responsible employees will report suspected violations of this policy, whether the reporting party or the responding party is a minor, to the Title IX Coordinator/Deputy Title IX Coordinator. Clery Act reporting of offenses for statistical purposes occurs whether victims are minors or adults.

Mercy College will notify parents/guardians of minor students/guests/participants of any possible child abuse or neglect, as well as any possible violation of this policy, whether the minor is the reporting or responding party. The College also reserves the right to designate which college officials have a need to know about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

### **Title IX Coordinator/Deputy Title IX Coordinator**

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

The Title IX Coordinator is responsible for the prompt and objective investigation of reports and allegations of sexual misconduct, as well as training, education, communication, and administration of grievance procedures for handling complaints alleging violations of this policy. In the absence of the Title IX Coordinator, the Deputy Title IX Coordinator will assume all responsibility for compliance relative to Title IX.

#### ***Deputy Title IX Coordinator***

The Deputy Title IX Coordinator is responsible for implementing and monitoring policy compliance at Youngstown. This includes working with the Title IX Coordinator for training, education, communication, and administration of grievance procedures for handling complaints alleging violations of the policy at Youngstown. The Deputy Coordinator is responsible for informing the Title IX Coordinator of alleged violations and procedures to address these violations at Youngstown. In the absence of the Deputy Title IX Coordinator at Youngstown, the Title IX Coordinator will assume all responsibility for compliance relative to Title IX.

**Definitions**

The following definitions are taken from the federal government's Not Alone website [www.notalone.gov](http://www.notalone.gov) and other federal sources (e.g., U.S. Department of Justice).

***Consent***

Consent must be informed, voluntary, and mutual, and can be withdrawn at any time. There is no consent where there is force, expressed or implied, or when coercion, intimidation, threats or duress is used. Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply ongoing future consent with that person or consent to that same sexual activity with another person. Past consent does not imply future consent.

If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption that meets this standard, or being asleep or unconscious.

***Dating Violence***

Dating violence is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, and where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship,
- The type of relationship, and
- The frequency of interaction between the persons involved in the relationship.

***Domestic Violence***

Domestic violence is defined as a pattern of abusive behavior that is used by an intimate partner to gain or maintain power and control over the other intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.

***Gender-Based Harassment***

Gender-based harassment is unwelcome conduct of a nonsexual nature based on a student's actual or perceived sex, including conduct based on gender identity, gender expression, and nonconformity with gender stereotypes.

***Hostile Environment***

A hostile environment exists when sex-based harassment is sufficiently serious to deny or limit a student's ability to participate in or benefit from the College's programs or activities. A hostile environment can be created by anyone involved in a College program or activity including administrators, faculty, staff, students, and campus visitors.

***Incapacitation***

Incapacitation is defined as the lack of physical or mental ability to make informed, rational judgments. Examples of incapacitation include unconsciousness, sleep, and blackouts.

***Intimidation***

Unlawful act of intentionally coercing or frightening someone to do (or to not do) something against his or her will.

***Preponderance of the Evidence***

To find an individual in violation of sexual misconduct only a preponderance of evidence standard needs to exist. This means it is “more likely than not” that the violation occurred and is less strict than “proof beyond a reasonable doubt”. The evidence does not have to be “clear and convincing”.

***Reporting Party***

The term used for an individual who reports an incident or files a complaint under the College’s grievance procedures or an individual or organization filing a complaint with the U.S. Departments of Education or Justice.

***Responding Party***

The party against whom an appeal, motion, or allegation has been made.

***Responsible Employee***

Employees who are required to report knowledge of gender discrimination to the Title IX Coordinator or Deputy Title IX Coordinator. All Mercy College employees are designated responsible employees, except employees bound by confidentiality (professional counselors and clergy).

***Retaliation***

Retaliation is defined as no person or other persons shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege, or because he/she has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing.

***Sexual Assault***

Sexual assault is actual or attempted sexual contact with another person without that person’s consent. Sexual assault includes, but is not limited to:

- Intentional touching of another person’s intimate parts without that person’s consent;
- Other intentional sexual contact with another person without that person’s consent;
- Coercing, forcing, or attempting to coerce or force a person to touch another person’s intimate parts without that person’s consent; or,
- Rape, which is penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by sex organ of another person, without that person’s consent.

### ***Sexual Exploitation***

Sexual exploitation occurs when a person takes sexual advantage of another person for the benefit of anyone other than that person without that person's consent. Example of behavior that could rise to the level of sexual exploitation included, but is not limited to:

- Prostituting another person;
- Recording images or audio of another person's sexual activity, intimate body parts, or nakedness without that person's consent;
- Distributing images or audio of another person's sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to such disclosure and objects to such disclosure; and,
- Viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's consent, and for the purpose of arousing or gratifying sexual desire.

### ***Sexual Harassment***

Sexual harassment is unwelcome conduct of a sexual nature, including but not limited to unwelcome sexual advances, requests for sexual favors, or other verbal or nonverbal conduct of a sexual nature, including rape, sexual assault and sexual exploitation. In addition, depending on the facts, dating violence, domestic violence, and stalking may also be forms of sexual harassment.

### ***Sexual Offense***

Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. (a) Rape—The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. (b) Fondling—The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity. (c) Incest—Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. (d) Statutory Rape—Nonforcible sexual intercourse with a person who is under the statutory age of consent.

Note: Sex Offenses are criminalized under Ohio Revised Code as follows - Rape (ORC 2907.02); Sexual Battery (ORC 2907.03); Gross Sexual Imposition (ORC 2907.05); Sexual Imposition (ORC 2907.06); Unlawful Sex with a Minor (ORC 2907.04)

### ***Stalking***

Stalking is defined as a pattern of repeated and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to feel fear.

**REFERENCING FORMS:**

Title IX Investigative Process Checklist Form 522-A  
Title IX Sexual Misconduct Intake Form 522-B  
Title IX FERPA Release Form 522-C  
Title IX Reluctant Reporting Party Statement Form 522-D  
Title IX Sexual Misconduct Responding Party Intake Form 522-E  
Title IX Witness List Form 522-F  
Title IX Witness Interview Form 522-G  
Title IX Evidence Tracking Form 522-H

---

Board Approved: September 11, 2018

Board Committee Approved: August 21, 2018

Reviewed/Revised: August 2018 (*Separated policy from procedures, changed terminology to “reporting party” and “responding party” where appropriate, clarified procedures according to latest Department of Education guidance, included Employee Sanctions, included specific information on Protection Orders in Toledo and Youngstown*)

Board Approved: June 13, 2017

Board Committee Approved: May 23, 2017

Reviewed/Revised: May 2017

Board Approved: September 8, 2015

Board Committee Approved: August 25, 2015

## **PROCEDURE 522**

### **Reporting Procedures and Protocol**

The College's primary concern is the safety of its campus community and members. The use of alcohol or drugs never makes the victim at fault for sexual violence or assault. Moreover, victims should not be deterred from reporting incidents of sexual violence or assault.

Although there is no specific time limit for reporting a suspected violation of this policy, a student or employee who believes that he or she has been subjected to conduct that violates this policy is encouraged to contact the Title IX Coordinator and/or Deputy Title IX Coordinator.

A report to the Title IX Coordinator will result in one of the following:

1. Informal Inquiry and/or Resolution
  - a. May be used to meet confidentiality requests of the reporting party; when there is not a threat to the greater community; when there is not enough information to proceed with formal investigation
2. Formal Investigation
  - a. Investigator will speak with all parties involved, witnesses, and gather evidence.
  - b. Determine if a violation of the Title IX Policy occurred.
    - i If yes, investigation is forwarded to administrative hearing or hearing panel for adjudication.
    - ii If no, case is closed.
    - iii Unfounded: there is not enough information available to make a determination.

See below for detailed information on these processes.

### ***Confidentiality Requests***

A victim of sexual violence or assault may ask that the incident be kept confidential. The College may not be able to grant that request, if in doing so, limits the College's ability to investigate the particular incident or to provide a safe, nondiscriminatory environment for all students. When appropriate and possible, the College may take steps to limit the effects of the alleged sexual misconduct and prevent its recurrence without initiating formal action against the alleged perpetrator or revealing the identity of the reporting student. Examples of steps that may be taken are: providing increased monitoring, supervision, or security at locations or activities where the misconduct occurred; providing training and education materials for students and employees; revising and publicizing the College policies on sexual misconduct; and conducting climate surveys regarding sexual misconduct.

Even absent of confidentiality requests, information will be shared with a limited number of "responsible employees" and kept securely maintained in a secure file in the office of the Title IX Coordinator/Deputy Title IX Coordinator. Responsible employees who are not bound by confidentiality (e.g., licensed counselors, licensed medical professionals, and clergy) should let the student know up front that they must disclose the identity of that student and the incident to the Title IX/Deputy Title IX Coordinator.

All victims of sexual violence or assault are provided with information and options regarding:

- Hospital, medical, nurse forensic examiner availability;
- Seeking personal counseling and advocacy;
- Preserving evidence;
- Making a complaint to local law enforcement and/or Public Safety;
- Calling 911 as needed;
- Victim's rights and College responsibilities regarding judicial non-contact, restraining, protective orders, changing living arrangements, and federal student aid options; and,
- Filing a complaint under this policy.

### ***Criminal Reporting Procedures***

Reporting to Public Safety and/or the local police is an option at any time following a sexual violence or assault incident. If the victim chooses not to report to the police immediately, he/she can still make the report at a later time. However, with the passage of time, the ability to gather evidence to assist with criminal prosecution may be limited. Depending on the circumstances, the police may be able to obtain a criminal restraining order on the victim's behalf.

### ***Administrative Reporting to the College***

A student, faculty member or staff member who has a complaint against a student, faculty, staff member or other individual involving a suspected violation of this policy or of retaliation should contact the Title IX Coordinator and/or Deputy Title IX Coordinator. All Mercy College Responsible Employees (as defined above) are required to report any suspected violations of this policy. This should occur within twenty-four hours. Ohio law requires all employees with knowledge of a felony to report it to law enforcement. All college personnel shall report conduct prohibited by the College's Anti-Discrimination and Harassment Policy and this Title IX/Sexual Misconduct procedure to the Title IX Coordinator.

To encourage reporting on the part of students, victims of misconduct will not be charged with alcohol, drug and most other policy violations related to their efforts to seek assistance. Contact information for the Title IX and Deputy Title IX Coordinators is listed earlier in the document. The Title IX Coordinator and/or Deputy Title IX Coordinator will provide the victim with written and verbal information regarding the procedures for investigating and addressing the incident.

### ***Content of a Complaint***

A complaint should contain the dates and times of the alleged misconduct. The names of persons involved, including potential witnesses, should also be included. The complaint should outline what occurred in as much detail as possible and the redress that is being sought. Finally, the contact information for the reporting party should be included.

### ***Prohibition against Retaliation***

Retaliation exists when action is taken against a participant in the complaint process that adversely affects the individual's employment or academic status, and is motivated in whole or in part by the individual's participation, or lack thereof, in the complaint process.

No individual involved in a complaint alleging a violation of this policy or participating in the investigation or resolution of such a complaint shall be subject to retaliation as a result of such activity or participation. Any acts of retaliation, as defined in this policy, shall be grounds for disciplinary action, up to and including dismissal for students and termination for faculty and staff.

### ***Interim Remedial Measures***

Pending final outcome of an investigation, the Title IX Coordinator and/or Deputy Title IX Coordinator will take steps to provide interim measures to either or both the reporting and responding parties involved in an allegation covered by this policy. In the event such a measure is implemented, the College will maintain it as confidential to the extent that maintaining confidentiality would not impair the College's ability to provide it. The Title IX Coordinator and/or Deputy Title IX Coordinator will communicate with each party throughout the investigation to ensure interim measures remain necessary and effective. Failure to comply with the terms of any interim measures or protections that have been implemented may constitute a separate violation of this policy.

These interim protective measures and actions may be available whether or not the individual chooses to report the sexual violence or assault to Public Safety/Protective Services or local law enforcement. The Title IX Coordinator and/or Deputy Title IX Coordinator remain available to assist the individual and provide reasonable remedies requested by the individual throughout the reporting, investigative and disciplinary processes, and thereafter.

### ***Health/Counseling/Clergy***

The individual may choose to seek advice and assistance from physicians, psychotherapists, professional counselors, clergy, sexual assault and domestic violence counselors and advocates, including individuals who work or volunteer for them.

### ***Civil Lawsuit***

The individual may choose to file a civil lawsuit against the responding party, whether or not criminal charges have been filed. A civil lawsuit provides the reporting party the opportunity to recover actual damages, which may include compensation for medical expenses, lost wages, pain, suffering, and emotional distress.

The reporting party may also choose to obtain a protective or restraining order. Restraining orders must be obtained from a court in the jurisdiction where the incident occurred. Restraining orders can protect victims who have experienced or are reasonably in fear of sexual violence or assault, including domestic violence, dating violence or stalking. The Title IX Coordinator/Deputy Title IX Coordinator can offer assistance with obtaining a protective or restraining order.

### ***Clergy Act***

The College is obligated to report any incidents of sexual violence or assault on its annual crime statistics under the Clergy Act. The College, under this Act, is also obligated to issue a timely warning when an incident of sexual violence or assault has occurred.

***Non-Reporting***

The individual is strongly encouraged to report any incident of sexual violence or assault to the police and/or the College's Title IX Coordinator/Deputy Title IX Coordinator so that steps may be taken to protect the College community. However, non-reporting is also an option.

**Investigation Procedures and Protocol**

An investigation into the report of a violation of the Title IX Policy will be conducted by either the Title IX Coordinator, Deputy Title IX Coordinator, or another faculty/staff member trained in conducting Title IX investigations to determine if a violation of policy has occurred. The investigating officer will commence an investigation no later than seven (7) days after the complaint was made. At the outset of the investigation, the investigating officer will also provide the responding party written notification of the investigation and of the allegations constituting a potential violation of this policy, including identities of the parties involved, the specific section of this policy allegedly violated, the precise conduct constituting the potential violation, and the date and location of the alleged incident. The purpose of the investigation is to gather all relevant facts from involved parties and provide this information to the hearing officer. During the course of an investigation, the investigating officer may receive counsel from College administrators or other parties as needed. A prompt, fair, and thorough investigation of the complaint will occur. The investigation will be concluded in a reasonable period of time. The investigating office may require the production of information by the parties by a certain date in order to facilitate a timely resolution.

***Pending Criminal Investigation***

Mercy College of Ohio will comply with law enforcement request for cooperation when appropriate. Such cooperation may require the College to temporarily suspend the fact-finding aspect of the Title IX investigation while the law enforcement agency is in the process of gathering evidence. The criminal investigation, however, does not relieve the College of its responsibilities under Title IX. The College will promptly resume its investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process of its investigation. The parameters of what information may or may not be shared with law enforcement are outlined in a Memorandum of Understanding with Public Safety and local law enforcement.

***Content of the Investigation***

During the course of the investigation, the investigating officer will conduct interviews with the reporting party, the responding party, and witnesses. The investigating officer will also collect any non-testimonial evidence including, physical and electronic and will preserve evidence in a manner that protects the quality of the evidence.

***Rights of the Parties***

During the course of the investigation and resolution of a complaint, the reporting party and the responding party shall have equal rights, including:

- Respect, dignity, and sensitivity throughout the process.
- Equal opportunity to identify and have considered witnesses and other relevant evidence.

- Similar and timely access to all information considered by the investigating officer.
- Equal opportunity to review any statements or evidence provided by the other party.
- Equal access to review and comment upon any other information independently developed by the investigating officer. This includes the right to review the final investigative written report (and provide comments on it, if desired) before submission to the hearing panel.
- The right to receive written notice in advance of any meetings or hearings so that they have sufficient time to prepare for meaningful participation.

If the reporting party does not wish to participate in an investigation or hearing process, the individual has the right to decline.

Both a reporting party and a responding party may ask a support person/advisor to accompany him or her at all stages of the process. The support person/advisor does not serve as an advocate on behalf of the reporting party or responding party, may not be actively involved in any proceedings, and he or she must agree to maintain the confidentiality of the process. Mercy College reserves the right to dismiss a support person/advisor who is disruptive or who does not abide by the limitations in the previous sentence.

### ***Interim Remedial Measures***

Pending the outcome of the investigation, Mercy College of Ohio will take steps necessary to protect the parties and the College community. At any time during the investigation, the investigating officer, the Title IX/Deputy Title IX Coordinator may determine interim remedies or protections for the parties involved or witnesses as appropriate. Possible interim measures were identified earlier in this policy. Failure to comply with the terms of any interim remedial measures or protections may constitute a separate violation of College policy.

### **Grievance/Adjudication Procedures**

If the investigating officer determines a violation of Title IX policy occurred, the matter will be adjudicated in the following manner.

#### ***Hearing***

1. A Hearing Panel will be established. Its members will consist of the Vice-President of Student Affairs and two other individuals from a predetermined pool of trained faculty and staff. If the Vice-President of Student Affairs is involved in the investigation process in any way, another member of the Executive Staff will serve on the Hearing Panel.
2. The Title IX Coordinator, Deputy Title IX Coordinator or other investigating officer will present their findings to the Hearing Panel.
3. The reporting party and the responding party will be requested to be present at the hearing. If the responding party accepts the findings of the investigation, no hearing is required. If the responding party does not accept the findings, the hearing process will continue and will not exceed thirty (30) business days.
4. The College will maintain documentation of all hearings or other proceedings, which may include various forms (e.g., notes, written findings of fact, transcripts, audio recordings, etc.).

5. Within three (3) business days of the conclusion of the hearing, both the reporting party and the responding party will simultaneously be informed in writing by the Vice-President of Student Affairs of the outcome of the hearing. The letter will state the ruling of “violation” or “no violation” of the policy and any corrective actions/remedies/disciplinary actions or sanctions that will be put into place. A decision will always be reached. The College may disclose to the reporting party information about any corrective actions/remedies taken that relate directly to the reporting party (e.g., “no contact” order). In no event will the reporting party be required to abide by a nondisclosure agreement that would prevent disclosure of the outcome.
6. If there is a finding of policy violation, appropriate, corrective action/remedies/disciplinary actions or sanctions by the College will be taken to:
  - a. Eliminate the policy violation;
  - b. Prevent the recurrence of the violation; and,
  - c. Address the effects of the violation.
7. Recordings, notes, investigations, findings, and determinations will be kept in a secure file within the office of the Title IX Coordinator/Deputy Title IX Coordinator.

### ***Informal Resolution***

Informal means of resolution, such as mediation, may be used in lieu of the formal investigation and determination procedure. The following standards apply to any informal resolution method that is utilized:

- The informal process can only be used with both parties’ voluntary cooperation after receiving a full disclosure of the allegations and their options for formal resolution, and with appropriate involvement by the institution (e.g., the Title IX Coordinator).
- The reporting party will not be required to “work out” the problem directly with the responding party.
- Either party may terminate the informal process at any time and elevate the complaint to or continue with the formal investigation procedure.
- With the agreement of the parties involved and the College, a complaint may be informally resolved at any stage of these procedures.

If informal resolution is reached, it will be documented in writing and signed by both parties. An informal resolution cannot be appealed.

### ***Disciplinary Action***

If it is determined that the College’s Title IX Policy was violated, the responding party will be subject to discipline, up to and including dismissal from College employment (employee) or expulsion from the College (student). In cases of sexual assault, the minimum sanction will consist of suspension.

### ***Employee Sanctions***

At the Toledo campus, the following are possible sanctions that may be imposed upon employees in accordance with Mercy Health policies HR-510 and MHP-HR-1503.0:

- **Written reprimand**
- **Suspension of 1 to 3 days or 4 to 7 days, depending on the severity of the violation**
- **Discharge/Termination**
- **Other Actions:** In addition to or in place of the above sanctions, Mercy College may assign any other sanctions as deemed appropriate.

At the Youngstown location, the following are possible sanctions that may be imposed upon employees in accordance with Mercy Health policy MHY HRY060:

- **Documented Verbal Counseling (DVC)**
- **Written Warning (WW)**
- **Final Written Warning (FWW)**
- **Termination (TRM)**
- **Other Actions:** In addition to or in place of the above sanctions, Mercy College may assign any other sanctions as deemed appropriate.

### **Student Sanctions**

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

**Verbal Warning:** Students will be counseled privately by faculty, staff, or administration regarding inappropriate behavior or misconduct, and a report will be completed documenting the verbal discussion.

**Written Warning:** Students will receive a written warning and a corrective action plan will be developed, including present and future consequences of inappropriate behaviors or misconduct.

**Temporary Suspension:** Students are suspended from all college classes and activities and not permitted to be on college property or assigned clinical sites for the period of time during which an investigation is being conducted or the discipline is occurring.

**Suspension:** A student can be suspended from all college classes and activities and not permitted to be on college property or assigned clinical sites for a specified period of time.

**Dismissal:** A student dismissed from a program or the college may be permitted to return to the college through the readmission policy to the College.

**Expulsion:** A student expelled from the college is not permitted to return to the college through the readmission process. Disciplinary action may continue for events that occurred prior to a student's expulsion from the college.

**Other Actions:** In addition to or in place of the above sanctions, the Mercy College may assign any other sanctions as deemed appropriate.

### *Appeals*

A reporting party or responding party may appeal the determination of a complaint only on the following grounds:

1. There is a substantial likelihood that newly discovered information, not available at the time evidence was presented, would result in a different decision.
2. There was a procedural error significant enough to call the outcome into question.
3. There was a clear error in factual findings.
4. Bias or prejudice was shown on the part of the investigating officer or hearing panel.
5. The disciplinary sanction imposed is disproportionate to the offense.

Appeals must be filed in writing with the President of the College within seven (7) business days of receipt of the written report determining the outcome of the complaint and include:

- Name of the reporting party;
- Name of the responding party;
- A statement of the determination 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.

The President will resolve the appeal within fifteen (15) business days of receiving it and may take any and all actions that he/she determines to be in the interest of a fair and just decision. The decision of the President is final. The President shall issue a short and plain, written statement of the resolution of the appeal, including any changes made to the investigating officer or hearing panel's previous written determination. The written statement shall be provided to the reporting party, the responding party, and the Title IX Coordinator/Deputy Title IX Coordinator within three (3) business days of the resolution.

### **Training, Prevention, and Education**

In order to promote the awareness of policies against sex discrimination, sexual harassment, and sexual violence or assault (including domestic violence, dating violence, and stalking) and to make victim resources available, a training, prevention, and education program has been established. The following information will be included in a variety of programs for new students and employees and training for students who serve as resident advisors. Ongoing prevention and awareness campaigns for all students, faculty, staff, and administrators will also be conducted. The information included in these programs consists of the following:

- A statement that Mercy College of Ohio prohibits sex discrimination, including sexual harassment, sexual violence or assault, domestic violence, dating violence, and stalking.
- The definitions of sex discrimination, sexual harassment, sexual violence or assault, domestic violence, dating violence, and stalking.
- The definition of consent.

- A statement that sexual violence or assault (including domestic violence, dating violence, and stalking) violates College policy and criminal law.
- Common facts and myths about the causes of sexual violence or assault.
- Safe and positive options for bystander intervention that may be taken by an individual to prevent harm or intervene in risky situations involving these offenses.
- Methods of encouraging peer support for victims.
- A statement explaining the College's primary concern is the safety of members of the College community; that the use of alcohol or drugs never makes the victim at fault for sexual violence or assault; and that students or employees who are victims should not be deterred from reporting incidents out of concern that they might be disciplined for related violations of drug, alcohol, or other College policies.
- How to recognize warning signs of abusive behavior and how to avoid potential attacks.
- What someone should do if she/he has been a victim of, or witness to sex discrimination, sexual harassment, sexual violence or assault, domestic violence, dating violence and stalking.
- Individuals to whom incidents may be reported.
- The availability of, and contact information for, campus and community resources for sexual violence or assault victims.
- College policies and disciplinary procedures available for addressing alleged violations and the consequences of violating these policies. Such proceedings shall:
  - Provide a prompt, fair, and impartial investigation and resolution;
  - Be conducted by officials who receive annual training on issues related to sex discrimination, sexual harassment, sexual violence, domestic violence, dating violence, and stalking, and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.
- The reporting party and the responding party are entitled to the same opportunities to have others present during a disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice.
- Both the reporting party and the responding party shall be simultaneously informed in writing of:
  - The outcome of any disciplinary proceedings that arises from an allegation of sexual violence, domestic violence, dating violence, and stalking;
  - The College's procedures for the accused to appeal the results of the disciplinary proceeding;
  - Any change to the disciplinary results that occurs prior to the time such results become final; and
  - When disciplinary results become final.
- Possible sanctions or protective measures the College may impose following the final determination of the College's disciplinary procedure regarding sexual violence, domestic violence, dating violence, and stalking.
- How the College will protect the confidentiality of victims, including how publicly-available recordkeeping (e.g., campus Clery reports) will be handled without the inclusion of identifying information about the victim, to the extent permissible by law.

- That persons who report being a victim of sexual violence, domestic violence, dating violence, and stalking must receive written notification about:
  - Existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for victims, both on campus and in the community.
  - Options for, and available assistance in, changing academic, living, transportation, and working situations, if requested by the victim and if such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement.
- Procedures reporting parties should follow if sexual violence, domestic violence, dating violence, and stalking has occurred, as well as the fact that the following written information must be provided to victims:
  - The importance of preserving evidence as may be necessary to prove criminal domestic violence, dating violence, sexual assault, and stalking, or to obtain a temporary restraining or other protective order;
  - The name and contact information of the College employee(s) to whom the alleged offense should be reported;
  - Reporting to law enforcement and campus authorities, including the victim's option to (a) notify law enforcement authorities, including on-campus and local police; (b) be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and (c) decline to notify such authorities;
  - Where applicable, the rights of victims and the College's responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court.

### **Options for Assistance Following an Incident of Sexual Misconduct**

***Call 911 if the victim is in the midst of any kind of emergency, immediate harm or threat of harm. Mercy Public Safety-(419) 251-1444 or Mercy Health Police-Youngstown- (330)-480-3288 are also resources which can be contacted with an emergency.***

The College has designated a Director of Compliance and Risk Management/Title IX Coordinator (Toledo campus), Leslie Erwin (419-251- 1710) and a Deputy Title IX Coordinator (Youngstown location), Elizabeth Cardwell (330-480-2170), to monitor and oversee overall compliance with laws and policies related to nondiscrimination based on sex. The Title IX Coordinator and Title IX Deputy Coordinator at Mercy College are available to explain and discuss: the victim's right to file criminal complaint (in cases of Sexual Violence); the process for filing a Title IX complaint; the right to receive assistance with the process; how confidentiality is handled; available resources both on and off campus; and other related matters. The victim is encouraged to ***seek immediate assistance from police and healthcare providers*** for physical safety, emotional support, and medical care.

#### ***Title IX Coordinator – Toledo***

Leslie Erwin

Director of Compliance and Risk Management

Title IX Coordinator

2221 Madison Avenue  
Toledo, Ohio 43604  
419-251-1710  
[titleIX@mercycollege.edu](mailto:titleIX@mercycollege.edu)

***Deputy Title IX Coordinator – Youngstown***

Elizabeth Cardwell  
1044 Belmont Avenue  
Youngstown, Ohio 44501  
330-480-2170  
[Elizabeth.Cardwell@mercycollege.edu](mailto:Elizabeth.Cardwell@mercycollege.edu)

***Mercy Health Public Safety – Toledo***

Police Chief, Director of Emergency Management  
MOB 1 Garage  
Mercy St. Vincent Medical Center  
2213 Cherry Street  
Toledo, OH 43608  
(419) 251-1444

***Mercy Health Police – Youngstown***

Mercy Youngstown Police- Chief  
Mercy St. Elizabeth Hospital  
1044 Belmont Avenue  
Youngstown, OH 44501  
(330)-480-3288

***Toledo Police***

Toledo Police Department  
525 North Erie Street  
Toledo, OH 43604  
(419) 245-3256 (non-emergency number)

***Youngstown Police***

Youngstown Police Department  
116 West Boardman Street  
Youngstown, OH 44503  
(330) 747-7911 (non-emergency number)

The College's Title IX and Deputy Title IX Coordinators are available to assist the victim in notifying Mercy Public Safety or Mercy Health Youngstown Police, if so desired. Mercy Public Safety or Mercy Health Youngstown Police will escort the victim to a safe place and transport to one of the System's hospitals or a sexual assault response center for a medical examination, if needed. Mercy Public Safety or Mercy Health Youngstown Police can also provide access to a confidential sexual assault advocate. If the victim would prefer not to notify Mercy Public

Safety, Mercy Health Youngstown Police or the local police, the individual is strongly encouraged to seek assistance from the College's Title IX and Deputy Title IX Coordinators who can provide the victim with information on options, rights, and remedies. Victims can also go to the Counseling and Wellness Center for additional support.

***Information for victims seeking medical care:***

For the preservation of evidence in the event of a sexual assault, the following guidelines are recommended:

- (a). Do not destroy the physical evidence that may be found in the vicinity of the crime. If the crime occurred in the victim's home, the victim should not clean until the police have had an opportunity to collect evidence.
- (b). Tell someone all details remembered about the assault. Write down all details remembered as soon as possible.
- (c). Do not bathe or douche. Do not urinate, if possible.
- (d). Do not eat, drink liquids, smoke, or brush teeth if oral contact took place.
- (e). Keep the clothes worn during the offense. If clothes are changed, place clothes in a paper bag (evidence deteriorates in plastic).
- (f). Get prompt medical attention at a local hospital.

**Interim Protective Measures:**

The College reserves the right to suspend or place on immediate administrative leave any member of the College Community accused of violating this policy, or take any other interim measures deemed appropriate, pending the outcome of an investigation and/or disciplinary proceedings. Such interim measures 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, modifying course schedules, and issuing a "no-contact" order, among other remedies.

**Resources:**

***Medical and Counseling Services***

Mercy College Counseling Services:

Lisa Sancrant

Director of the Student Success Center

2221 Madison Avenue

Toledo, OH 43604

(419) 251-1454

[lisa.sancrant@mercycollege.edu](mailto:lisa.sancrant@mercycollege.edu)

***Off-Campus Services – Toledo***

Sexual Assault/Rape

YMCA H.O.P.E. Center

1018 Jefferson Avenue

Toledo, OH 43624

(419) 241-3235 non-emergencies

24-Hour Hotline: (866) 557-7273

Area Hospitals that Provide Sexual Assault Examinations and Information and Referrals:

Mercy St. Vincent Hospital  
2213 Cherry Street  
Toledo, OH 43608  
(419) 251-3232

Mercy St. Charles Hospital  
2600 Navarre Avenue  
Oregon, OH 43616  
(419) 696-7300

University of Toledo Medical Center  
3000 Arlington Avenue  
Toledo, OH 43614  
(419) 275-1620

St. Luke's Hospital  
5901 Monclova Road  
Maumee, OH 43537  
(419) 893-5920

The Toledo Hospital  
2142 North Cove Boulevard  
Toledo, OH 43606  
(419) 874-1494

***Off-Campus Services – Youngstown***  
Rape Crisis and Counseling Services  
535 Marmion Avenue  
Youngstown, OH 44502  
(330) 782-5664 non-emergencies  
24 Hour Hotline: (330) 782-3936

Area Hospitals that Provide Sexual Assault Examination and Information and Referrals:

Mercy St. Elizabeth Hospital  
1044 Belmont Avenue  
Youngstown, OH 44504  
(330) 480-2344  
Coordinator of the Sexual Assault Nurse Examiner (SANE) Program  
Office Phone: (330) 480-3323  
Cell Phone: (330) 301-8418

**U.S. Department of Education, Office of Civil Rights**  
(800) 421-3481 or [ocr@ed.gov](mailto:ocr@ed.gov)

### ***Legal Assistance***

Legal Aid of Western, OH, Inc. provides legal services to those recovering from domestic violence, Sexual Assault, and Stalking. (419) 724-0460 (Lucas County), (888) 534-1432 or [www.legalaidline.org](http://www.legalaidline.org)

### Protection Orders –

In Ohio, there are different kinds of protection orders available to victims, including Domestic Violence Civil Protection Orders (DVCPO), Civil Stalking Protection Orders (CSPO), and Sexually Oriented Offense Protection Orders (SOOPO). Courts can issue ex parte (temporary) orders and orders for longer lengths of time. Ex parte orders are typically put in place until a hearing before a judge occurs. A victim should be prepared to present documentation and/or other forms of evidence when filing for an order of protection. When a protection order is granted, they are enforceable statewide. If you have obtained an order and need it to be enforced in this area you should contact local law enforcement.

### At the Toledo campus:

- A DVCPO should be filed for in a Domestic Relations Court. The address for the Lucas County Court of Domestic Relations is: 429 Michigan St., Toledo, OH 43604. The phone number is 419-213-6850. More information is available here: <https://www.co.lucas.oh.us/163/Domestic-Relations-Court>
- A CSPO or SOOPO should be filed for in a Common Pleas Court. The address for the Lucas County Common Pleas Court is: 700 Adams St., Toledo, OH 43604. The phone number is 419-213-4777. More information is available here: <https://www.co.lucas.oh.us/307/Common-Pleas-Court>

### At the Youngstown location:

- A DVCPO should be filed for in a Domestic Relations Court. The address for the Mahoning County Court of Domestic Relations is: 120 Market St # 4, Youngstown, OH 44503, (330) 740-2208. More information is available here: [http://www.mahoningdrcourt.org/court\\_forms.htm](http://www.mahoningdrcourt.org/court_forms.htm)
- A CSPO or SOOPO should be filed for in a Common Pleas Court. The address for the Mahoning County Common Pleas Court is: 120 Market Street, Youngstown, OH 44503, 330-740-2158.

The institution will also enforce any temporary restraining order or other no contact order against the alleged perpetrator from a criminal, civil, or tribal court. Any student or employee who has a protection order or no contact order should notify the Title IX Coordinator and/or Deputy Title IX Coordinator and provide a copy of the restraining order so that it may be kept on file with the institution and can be enforced on campus, if necessary. Upon learning of any orders, the institution will take all reasonable and legal action to implement the order.