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**MALONE UNIVERSITY**

CHRIST'S KINGDOM FIRST

## **Title IX Comprehensive Plan**

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Maintained by:

Office of Human Resources

Founders Hall | Malone University, OH 44709

Approved: July 2021

Updated: September 2024

Acknowledgements:

Baldwin Wallace University; Case Western Reserve University; Ohio Wesleyan University; Rocky Valley College; Cleveland State University; John Carroll University

Title IX Sex Discrimination & Harassment - US Dept of Education; Ohio Domestic Violence Network

Thompson Coburn LLP; Bricker & Eckler LLP

## **I. Purpose**

Title IX of the Education Amendments of 1972 protects individuals from discrimination based on sex/gender in any educational program or activity operated by recipients of federal financial assistance. Sexual harassment, which includes particular acts of sexual and interpersonal violence, is a form of sex discrimination prohibited by Title IX, as well as Title VII of the Civil Rights Act of 1964, as amended. Malone University is committed to maintaining an educational and employment environment free from discrimination, harassment and misconduct on the basis of sex or other characteristics protected by law, in its educational programs and activities, admissions, or employment.

The purpose of this document is implementing and executing the University's Prohibition of Sexual Discrimination, Harassment and Misconduct ("Procedure") as outlined in the Malone University Student Handbook, Appendix A, Administrative Handbook Section E-11, and Staff Handbook Section E-11. This document complements the Comprehensive Policy found in the Student Handbook and the Campus and Malone-Related Sexual Misconduct Policy for all employees. The University wants to ensure a safe and healthy educational and employment environment, and meet legal requirements in accordance with: Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in the University's programs or activities; relevant sections of the Violence Against Women Reauthorization Act; Title VII of the Civil Rights Act of 1964, and other applicable laws and University policies.

The University has an affirmative duty to take immediate and appropriate action once it knows of any act of sexual discrimination, harassment and/or misconduct in any of its educational or employment programs or activities. The University will promptly and thoroughly investigate any complaints of sexual discrimination, harassment and/or misconduct in accordance with the procedures set forth in the Student Handbook.

## **II. Jurisdiction**

The University's Title IX Comprehensive Plan applies to any person in the United States, on the basis of sex, who is excluded from participation in, denied the benefits of, or is subjected to discrimination under any education program or activity at Malone University. This includes any sexual harassment that occurs on University property or if off campus if any of the two conditions met:

1. if the off-campus incident occurs as part of Malone University's operations,
2. if Malone University exercised substantial control over the respondent and the context of alleged sexual harassment that occurred off campus.

## **III. Scope**

### **A. Students**

Sections I-II, III(A), and IV-XIV of these Procedures govern sexual discrimination, harassment and/or misconduct involving students, such as:

1. A student complainant and a student respondent;

2. A student complainant and an employee or third-party respondent;
3. An employee complainant and a student respondent;
4. A third-party complainant and a student respondent.

## B. Non-Students

The following Sections of these Procedures govern sexual discrimination, harassment and/or misconduct which solely involve employees and/or third parties:

- Section I, Purpose
- Section II, Jurisdiction
- Section III, Scope
- Section IV, Definitions
- Section V, Administration
- Section VI, Options for Assistance Following an Incident of Sexual Discrimination, Harassment and/or Misconduct
- Section IX, Interim Measures
- Section X, Miscellaneous
- Section XIV, Training
- Section XV, Programming
- Section XVI, Procedures Governing Complaints Solely Involving Employees and/or Third Parties

## IV. Definitions

1. **Actual Knowledge:** notice of Sexual Harassment or Interpersonal Violence, allegations of Sexual Harassment or Interpersonal Violence, or retaliation to the University's Title IX Coordinator or any Deputy Title IX Coordinator, or any other official of the University who has authority to institute corrective measures on behalf of the University.
2. **Advisors:** A person chosen by a party or appointed by the University to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the Title IX hearing, if any.
3. **Appeals Committee:** University-appointed designees who had no previous role in a given case and review appeals to decided cases.
4. **Awareness Programming:** institutional action designed to communicate the prevalence of sexual violence, including without limitation training, poster and flyer campaigns, electronic communications, films, guest speakers, conferences, seminars, or panel discussions.
5. **Bystander Intervention:** the act of challenging the social norms that support, condone, or permit sexual discrimination, harassment and/or misconduct. A bystander is anyone who observes an emergency or a situation that looks like someone could use some help. They must then decide if they are comfortable stepping in and offering assistance.
6. **Clery Act:** The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act or Clery Act. A 1990 federal statute codified at 20 U.S.C. § 1092(f), with implementing regulations in the U.S. Code of Federal Regulations at 34 CFR 668.46. Universities who receive federal financial aid are required to maintain and disclose information in an annual security

report about crime on their campus. Compliance is monitored by the US Dept. of Education. The law is named after Jeanne Clery, a student who was sexually assaulted and murdered in her residence hall in 1986.

7. **Complainant:** an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment and Interpersonal Violence including but not limited to: sexual discrimination, sexual misconduct, sexual harassment, interpersonal violence, or retaliation under the University policies.
8. **Complaint:** an allegation of one or more violations of university policies, made to the Title IX Coordinator, requesting an investigation and signed by the Complainant. A Formal Complaint is a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the school investigate the allegation of sexual harassment.
9. **Confidential Support Resource:** a person who is employed or contracted by the University to provide emergency and ongoing support to student survivors of sexual violence. These persons receive trauma-informed training on sexual violence before being designated as confidential support resources, and thereafter receive annual training on issues related to sexual violence. Confidential Support Resources usually include counselors in the mental health center, ordained ministers in the spiritual formation office, and the nurse in the Health Center. They may include persons employed by a community-based sexual assault crisis center (e.g., Compass) with whom the University partners.
10. **Consensual Relationship Between Employee and Student:** A sexual or romantic relationship between an employee and a student creates a conflict of interest when one of the individuals has direct evaluative authority over the other. Voluntary consent to a relationship of this nature is inherently suspect given the dynamics of the relationship. Therefore, it is a violation of this policy for an employee to have a sexual or romantic relationship with a student enrolled in a course being taught by the employee or whose work that employee supervises. Relationships of this nature can affect other students, faculty, and staff because it places the employee in a position to favor or advance one student's interest at the expense of the others. This policy does not apply to those who may have had a pre-existing relationship prior to being designated as employee status.
11. **Consent:** when a person freely, actively and knowingly gives clear permission at the time to engage in a mutually agreed upon sexual activity with a particular person. Consent may not be inferred from silence, passivity, or a lack of verbal or physical resistance.
12. **Comprehensive Policy:** the policy created and implemented by the University to address student allegations of sexual violence, domestic violence, dating violence and stalking.
13. **Dating Violence:** violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant; and where the existence of such a relationship shall be determined based on the reporting party's statement with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
14. **Days:** refers to business days.

15. **Deputy Title IX Coordinator:** a designated University employee who has been assigned a supporting role to assist the Title IX Coordinator with coordinating all Title IX compliance measures, which includes tracking and overseeing the resolution of Formal Complaints of Sexual Harassment and Interpersonal Violence falling under this Policy.
16. **Directly Related Evidence:** evidence connected to the complaint, but is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and will not be relied upon by the investigative report.
17. **Domestic Violence:** Includes a felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the survivor shares a child in common, by a person who is cohabitating with or has cohabitated with the survivor as a spouse or intimate partner, by a person similarly situated to a spouse of the survivor under the domestic or family violence laws of the State of Ohio, or by any other person against an adult or youth survivor who is protected from that person's acts under the domestic or family violence laws of the State of Ohio.
18. **Education Program or Activity:** Locations, events, or circumstances where Malone University exercises 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 Malone University.
19. **Final Determination:** A conclusion by the preponderance of the evidence that the alleged conduct occurred and whether it did or did not violate policy
20. **Finding:** A conclusion by preponderance of the evidence that the conduct did or did not occur as alleged as in a finding of fact.
21. **Formal Complaint:** a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment and Interpersonal Violence, or retaliation for engaging in a protected activity against a Respondent and requesting that the University (Recipient) investigate the allegation. Such a Formal Complaint does not need to contain a detailed statement of facts.
22. **Formal Grievance Process:** The formal process for resolving a formal complaint including Informal Resolution, Formal Resolution (Investigation, Hearing, and Appeal), or Dismissal as detailed in this policy and is in compliance with the requirements of the Title IX regulations.
23. **Grievance Process Pool:** Any investigative officers, hearing officers, appeal officers, and Advisors who may perform any or all of these roles (though not at the same time or with respect to the same case).
24. **Hate Crime:** An act or an attempted act that violates a criminal statute by any person that in any way constitutes an expression of hostility toward the complainant because of his or her sex, race, ethnicity, religion, age, disability, national origin, sexual orientation, or gender-related identity, color, marital status, military status or unfavorable military discharge.
25. **Hearing Panel Decision Maker(s):** University selected individuals to formally preside over the Live Hearing process. These individuals have decision-making and sanctioning authority within the Recipient's Formal Grievance process. These individuals can not have previously been involved with the Title IX intake, informal alternative resolution process, or investigation.

26. **Hostile Environment Caused by Sexual Harassment:** a sexually harassing hostile environment is created when conduct by an individual is so severe, pervasive and persistent that it denies or limits an individual's ability to participate in or receive the benefits, services or opportunities of the University's educational programs or activities or the individual's employment access, benefits or opportunities. In determining whether a hostile environment has been created, the conduct in question will be considered from both a subjective and an objective perspective of a reasonable person in the alleged survivor's position, considering all the circumstances.
27. **Incapacitation:** When a person is incapable of giving consent due to the person's age, use of drugs or alcohol, or because of an intellectual or other disability which prevents the person from having the capacity to give consent.
28. **Informal Alternative Resolution:** The University encourages resolutions by the agreement of both parties, referred to as an informal alternative resolution when the parties desire to resolve the situation cooperatively and expeditiously. Either party may propose a resolution by agreement for certain alleged violations of the University's Sexual Discrimination, Harassment, and Misconduct Policy. The parties also may agree to consider the informal alternative resolution process at any point during the Formal Investigation and Hearing Process or Grievance Process for Title IX Sexual Harassment which will be subject to the approval of the University. Please see section XII - Informal Resolution of Reports and Complaints for a complete description of the Informal Alternative Resolution process.
29. **Intimidation:** To make timid or fearful, to compel or deter by or as if by threats. Intimidation is a form of retaliation prohibited by the University's Sexual Discrimination, Harassment and Misconduct Policy and Procedures.
30. **Investigation:** Process by which Title IX resolution team assesses allegations of one or more violations of policies. University designees may initiate an investigation of allegations for which no complaint has been or will be made.
31. **Investigator:** The individual charged by the University with gathering facts about an alleged violation of this Policy, including statements of the Complainant, the Respondent and witnesses, documents, texts, photos, pictures, images, and recordings, assessing relevance and credibility, synthesizing the evidence, and complaining this information into an investigation report and file of directly related evidence for review by the Complainant, Respondent, their Advisors, and the Hearing Panel Decision Makers.
32. **Mandated Reporter:** Any employee of Malone University who is obligated by policy to share knowledge, notice, and/or reports of sexual harassment or retaliation with the Title IX Coordinator.
33. **Notice:** An employee, student, or third party has informed the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.
34. **Official with Authority (OWA):** Any employee with Malone University explicitly vested with the responsibility to implement corrective measures for sexual harassment, or retaliation on behalf of the Recipient.
35. **Parties:** The Complainant(s) and Respondent(s), collectively.

36. **Policies:** The University's Discrimination/Harassment/Sexual Misconduct policy and other policies, state and federal laws, rules and regulations relating to protected class-based discrimination and harassment, and sexual violence.
37. **Preponderance of Evidence:** The standard of proof used to determine a violation of University policies. To meet the preponderance of the evidence standard, the evidence presented must establish for a reasonable person that it is more likely true than not that a violation of the Policies occurred.
38. **Primary Prevention Programming:** institutional action and strategies intended to prevent sexual violence before it occurs by means of changing social norms and other approaches, including without limitation training, poster and flyer campaigns, electronic communications, films, guest speakers, conferences, seminars, or panel discussions.
39. **Procedures:** The Title IX resolution team procedures for addressing reports of discrimination, harassment, sexual violence and/or retaliation set forth in this document.
40. **Remedies:** Post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the Recipient's educational program.
41. **Report:** Information provided to the Title IX Officer(s) about a possible violation of University policies relating to discrimination, harassment, sexual violence and/or retaliation.
42. **Reporting Party:** A person or persons alleging or reporting a violation of the Policies.
43. **Resolution:** The result of an Informal Alternative Resolution or Formal Grievance Process.
44. **Respondent:** An individual(s) who has been reported to be the perpetrator of conduct that could constitute sexual harassment under university policies.
45. **Retaliation:** Any form of retaliation, including intimidation, threats, harassment and other adverse action taken or threatened against any complainant or person reporting or filing a complaint alleging sexual discrimination, harassment or misconduct or any person cooperating in the investigation of such allegations (including testifying, assisting or participating in any manner in an investigation) is strictly prohibited. Action is generally deemed adverse if it would deter a reasonable person in the same circumstances from opposing practices prohibited by the University's Sexual Discrimination, Harassment and Misconduct Policy and Procedures. Retaliation may result in disciplinary or other action independent of the sanctions or interim measures imposed in response to the allegations of sexual discrimination, harassment or misconduct.
46. **Right to Appeal:** The right to appeal if offered to either party, must be equally accessible to the complainant and the accused. Grounds for appeal are stated in the administrative hearing procedures. The non-requesting party will have the option to submit a written response to the appeal.
47. **Risk Reduction:** Risk reduction means options assigned to decrease perpetration and bystander inaction, and to increase empowerment to victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.
48. **Sanction:** A consequence imposed by Malone University on a Respondent who is found to have violated this policy.

49. **Sexual Assault:** Any type of sexual contact or behavior that occurs by force or coercion or without consent of the recipient of the unwanted sexual activity. It includes sexual acts against a person who is unable to consent either due to age or lack of capacity or impairment. Examples include forced sexual intercourse, sodomy, child molestation, incest, fondling, attempted rape, statutory rape and rape. Sexual assault can occur between members of the same or opposite sex. Sexual assault includes any forced act against one's will where sex is the weapon.

- a. "Non-consensual sexual contact" is any intentional sexual touching, however slight, with any object, by a man or a woman upon a man or a woman that is without consent and/or by force. Sexual Contact is intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice.
- b. "Non-consensual sexual intercourse" is any sexual penetration, however slight, with any body part or object, by any individual upon another that is without consent and/or by force. Penetration includes: vaginal penetration by a penis, object, tongue or finger, anal penetration by a penis, object, tongue, or finger, and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact. "Sexual penetration" also includes compelling a person to penetrate his or her own or another person's intimate parts without consent.

50. **Sex Discrimination:** Discrimination on the basis of sex, sexual orientation or gender-related identity. Sex discrimination includes sexual harassment, sexual misconduct and sexual violence.

51. **Sexual Exploitation:** Occurs when a person takes non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited, and that behavior does not meet the definition of sexual assault. Sexual exploitation includes prostituting another person, non-consensual digital, visual or audio recording of sexual activity, non-consensual distribution of photos or other images of an individual's sexual activity or intimate body parts with an intent to embarrass such individual, non-consensual voyeurism, knowingly transmitting HIV or a sexually transmitted disease to another, or exposing one's genitals to another in non-consensual circumstances.

52. **Sexual Harassment:** Conduct on the basis of sex that satisfies one or more of the following:

- a. an employee conditioning educational benefits on participation in unwelcome sexual conduct (i.e. quid pro quo);
- b. Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to a Malone education programs or activity; or
- c. Sexual assault (as defined in the Clery Act), or dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).

See also Interim Sexual Harassment & Interpersonal Violence Policy.

**53. Sexual Misconduct:** Includes sexual assault, sexual discrimination, sexual exploitation, sexual harassment, dating violence, domestic violence, sexual violence, stalking, and threats. Sexual Misconduct that does not fall under the jurisdiction of Title IX regulations will be handled within the guidelines of our Campus and Malone-related Sexual Discrimination, Harassment, and Misconduct Policy.

**54. Sexual Violence:** Physical sexual acts attempted or perpetuated against a person's will or where a person is incapable of giving consent (e.g. due to the person's age, use of drugs or alcohol, or because an intellectual or other disability prevents the person from having the capacity to give consent). Sexual violence includes, but is not limited to, rape, sexual assault, sexual battery, sexual abuse and sexual coercion. All such acts of sexual violence are forms of sex discrimination prohibited by Title IX.

**55. Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: 1) fear for his or her safety or the safety of others; or 2) suffer substantial emotional distress such as alarm, intimidation or serious annoyance. A course of conduct includes two or more acts, including but not limited to, those in which the alleged perpetrator directly, indirectly, or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens or communicates to or about the person towards which such conduct is directed or interferes with that person's property.

**56. Supportive Measures:** Individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment.

**57. Survivor:** an individual who has experienced sexual violence, domestic violence, dating violence, or stalking while enrolled, employed, or attending an event at a higher education institution.

**58. Survivor-Centered:** a systematic focus on the needs and concerns of a survivor of sexual violence, domestic violence, dating violence, or stalking that: 1) ensures the compassionate and sensitive delivery of services in a nonjudgmental manner; 2) ensures an understanding of how trauma affects survivor behavior; 3) maintains survivor safety, privacy, and, if possible, confidentiality; and 4) recognizes that a survivor is not responsible for the sexual violence, domestic violence, dating violence, or stalking.

**59. Third-Party Reporter:** any person who was not the recipient of the behavior and reports an incident of Sexual Harassment or Interpersonal Violence. This term can apply to witnesses or other employees who report allegations of Sexual Harassment and Interpersonal Violence or retaliation.

**60. Threat:** Any oral, written, or virtual expression or gesture that could be interpreted by a reasonable person as conveying an intent to cause harm to persons or property. These actions can be direct, indirect, or through third parties, by any action, method, device or means.

**61. Title IX Coordinator:** The University employee having primary responsibility for coordinating all Title IX compliance measures, which includes tracking and overseeing the resolution of Formal Complaints of Sexual Harassment and Interpersonal Violence falling under this Policy.

**62. Title IX Resolution Team:** refers to the Title IX Coordinator, investigators, and any member designated that is trained. (This includes external investigators or hearing officers).

**63. Trauma-Informed Response:** a response involving an understanding of the complexities of sexual violence, domestic violence, dating violence, or stalking through training centered on the neurobiological

impact of trauma, the influence of societal myths and stereotypes surrounding sexual violence, domestic violence, dating violence, or stalking, and understanding the behavior of perpetrators.

**64. Violence Against Women Act (VAWA):** U.S. federal legislation that expanded the juridical tools to combat violence against women and provide protection to women who had suffered violent abuses. It was initially signed into law in September 1994.

**65. Witness:** an individual who has direct knowledge of or information about the allegation being made.

## **V. Administration: Title IX Resolution Team**

### **Title IX Coordinator**

The University has designated the following employee the Title IX Coordinator. The Title IX Coordinator's contact information is:

Melody Scott  
Malone University  
2600 Cleveland Ave.  
Canton, OH 44709  
Telephone: (330) 471-8273

The Title IX Coordinator's role is:

- Coordinate efforts to comply and remain compliant with Title IX regulations. This includes coordinating investigations of sexual harassment allegations.
- Overseeing the University's response to all Title IX reports and complaints and identifying and addressing any patterns or systemic problems revealed by such reports and complaints.
  - A Title IX complaint includes complaints alleging sexual discrimination, sexual harassment and/or sexual misconduct (as those terms are defined herein) which involve a University student as the complainant or as the respondent.
- Being informed of all reports and complaints raising Title IX issues, including those initially filed with another individual or office or if the investigation will be conducted by another individual or office.
- Upholds the competencies and skills necessary for effective administration of the grievance process and related activities. Ensuring that adequate training is provided to students, faculty and staff on Title IX issues and processes. Sets a provision for ongoing training, consultation, and technical assistance and information services regarding Title IX requirements.
- Creates and maintains published materials and website content related to community standards, equity, and response.
- Ensuring proper process and procedures are followed in Title IX investigations.

- o Provides consultation and information regarding Title IX requirements to potential complainants. Determining appropriate supportive measures for a complainant and or respondent upon learning of a report of sexual harassment.
  - o Distributes grievances forms to potential complainants.
  - o Receives official grievances from complainants (aka Formal Complaint) and provides notification of the grievances to complainant and respondent. If informal resolution is desired by both parties, this person notifies the Informal Resolution team of the complaint. If formal resolution is desired by either party, notification of complaint is sent to the Investigator.
  - o Ensures that notification has been sent to all involved parties about any decisions and procedures for appeal.
  - o Monitors compliance of all requirements and timelines specified in grievance/formal complaint procedures.
- Ensuring that appropriate policies and procedures are in place for working with law enforcement and coordinating services with local advocacy organizations and services providers, including but not limited to rape crisis centers.
  - Maintains grievance and compliance records and files.
  - Develops and implements ongoing campus-wide climate surveys on an every other year basis. Maintains the ability to prepare reports on the Title IX compliance activities and makes recommendations for action where appropriate.
  - Promoting an educational and employment environment which is free of sexual discrimination and gender bias.

### **Deputy Title IX Coordinator, Investigator Role**

#### **Lead Investigator: Anna Meadows**

- Serves as the Title IX Investigator
  - o Interview the person(s) involved: complainant, respondent and witnesses; examine relevant documents and gather related factual information.
  - o Manages all complainant, respondent and witness interview scheduling and coordination.
  - o The interview of the respondent is an opportunity for the respondent to learn more about the allegations, tell the investigator what they know, and review what happens during the Title IX process.
  - o May make recommendations regarding: adjustment of schedules, suspend or dismiss complainant and/or respondent until the hearing process has been completed in order to ensure the safety and wellbeing of both parties as pursuant to the rights of the University.
  - o The role of the investigator is to be an unbiased reporter. The investigator may not conclude whether or not there is sufficient evidence that a violation has occurred.

- o After completing the investigation, the investigator issues a report to release to the hearing panel, complainant and respondent with facts, details and evidence related to their findings.

### **Deputy Title IX Coordinator, Hearing or Conduct Officer**

#### **Lead Hearing Officer: Christina Schnyders**

- Receives report of investigators.
- In cases where a full hearing is appropriate, the hearing panel will contact the complainant and respondent with information about the hearing, such as the time, location and date of the hearing.
- Plans and implements a full hearing which involves the involved parties, and any witnesses.
- After the hearing panel has evaluated the information from the investigator and conducted the hearing process, they will reach a decision and issue a decision in writing, including a sanction if necessary. The lead hearing officer is the final decision maker who will evaluate the evidence for themselves.
- Provide assistance to students, faculty, staff, and visitors regarding Malone's Title IX Policy including answering questions on the rights of parties involved in a report or complaint, resource referrals, and procedural questions.
- Assists with maintenance of published materials and website content related to community standards, equity, and response.

#### **Lead Informal Complaint/mediator: Andrea Ramsey**

- Receives notice that parties have selected to engage in the informal resolution process.
- In cases where an informal process occurs, the mediator will contact the complainant and respondent with information about the mediation, such as the time, location and date of the meeting.
- Plans and implements a mediation session which involves the involved parties, and any accompanying advisors.
- After the mediator has evaluated the information, they will assist parties in reaching a resolution(s) and issue, in writing, the conclusions.
- Provide assistance to students, faculty, staff, and visitors regarding Malone's Title IX Informal Resolution Process including answering questions on the rights of parties involved in a report or complaint, resource referrals, and procedural questions.
- Assists with maintenance of published materials and website content related to community standards, equity, and response.

Inquiries concerning the application of Title IX may be referred to the Title IX Coordinator or to the United States Department of Education's Office for Civil Rights:

U.S. Department of Education

Office for Civil Rights, Telephone: 1-800-421-3481

**VI. Options for Assistance Following an Incident of Sexual Discrimination, Harassment or Misconduct**

**A. Immediate and On-Going Assistance**

WHERE TO CALL FOR HELP ON CAMPUS	WHERE TO CALL FOR HELP OFF CAMPUS
<p><b><u>Emergency</u></b>            Campus Emergency: 330-471-8111            Emergency Rescue: 9-911            Campus Shield Safety App</p> <p><b><u>Medical</u></b>            MU Student Health Services            330-471-8340</p> <p><b><u>Counseling and Aftercare</u></b>            Malone University Counseling Center            3<sup>rd</sup> Floor, Randall Campus Center            330-471-8711  <a href="mailto:counselingcenter@malone.edu">counselingcenter@malone.edu</a></p> <p><b>Compass, Inc.</b>            Brehme Centennial Center            330-471-8448            24-Hour Crisis Line            Stark County: 330-452-1111            Tuscarawas &amp; Carroll County: 330-339-1427            *Compass is a free, confidential service on campus by a third party; they are not employees of Malone.</p> <p><b><u>Residential Life Staff</u></b>            Blossom Hall &amp; Heritage Hall: 330-471-7119            Woolman-Whittier Halls: 330-471-7523            Fox/Haviland Halls: 330-471-7441            DeVol Hall: 330-471-7531</p> <p><b>Student Development Office:</b> 330-471-8273</p>	<p><b><u>Medical</u></b>            Mercy Medical Center            330-489-1000            1320 Mercy Drive Northwest            Canton, OH 44710</p> <p>Aultman Hospital            330-452-9911            2600 6<sup>th</sup> Street NW            Canton, OH 44710</p> <p><b><u>Rape/Crisis Lines and Assistance – 24 Hours</u></b>            National Domestic Violence Hotline Number            1-800-799-(SAFE)7233</p> <p>Compass, Inc.            330-452-1111            24-Hour Crisis Line            Stark County: 330-452-1111            Tuscarawas &amp; Carroll County: 330-339-1427</p> <p>Domestic Violence Project, Inc.            Canton, OH 44711-9459            Phone: 330-445-2000            24-Hour Confidential Hotline: 330-453-7233</p> <p>Ohio Domestic Violence Network            National Domestic Violence Hotline Number:            1-800-799-(SAFE) 7233</p> <p>Choices for Victims of Domestic Violence            24 Hour Hotline: 614-224-4663            *Provides temporary shelter, legal advice, counseling, and information.</p> <p>Rape Crisis – American Red Cross            408 9<sup>th</sup> Street SW            Canton, OH 44707            330-453-0146            330-452-1111</p> <p>RAINN-Rape, Abuse, &amp; Incest National Network Hotline            1-800-656-HOPE</p> <p>Sexual Assault Response Network of Central Ohio (SARNCO)            614-267-7020</p>

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## VII. Student Reporting and Confidentially Disclosing Sexual Discrimination, Harassment and/or Misconduct

The University encourages complainants of sexual discrimination, harassment and/or misconduct, including sexual violence, to talk to somebody about what happened so that they can get the support they need and so that the University can respond appropriately. Different employees on campus have different abilities to maintain a student's confidentiality:

- All employees are recommended to report all the details of an incident (including identities of the complainant and respondent) to the Title IX Coordinator.
- The various reporting and confidential disclosure options available are set forth in further detail below. Regardless of whom a report is made to, the University is obligated to provide the student with concise information, written in plain language, concerning the student's rights and options pursuant to these Procedures.

Immunity for Good Faith Reporting: students who in good faith report an alleged violation of the University's prohibition of sexual discrimination, harassment and misconduct will be granted immunity and will not receive a disciplinary sanction for a student conduct violation (for example, underage drinking) revealed in the course of reporting. Immunity will not be provided for student conduct violations which the University determines are egregious, including without limitation misconduct which places the health or safety of another person at risk.

### A. Student Privilege and Confidential Communications

1. Confidential Advisors (aka Confidential Resource Support Person): a person who is employed or contracted by the University to provide emergency and ongoing support to student survivors of sexual violence.
  - Confidential support person(s): receive trauma-informed training on sexual violence before being designated as confidential advisors, and thereafter receive annual training on issues related to sexual violence.
  - They receive periodic training on the University administrative process, interim protective measures and accommodations, and complaint resolution procedures.
  - They usually include counselors in the Student Counseling Center, ordained ministers in the spiritual formation office, and the nurse, under the supervision of a doctor, in the Student Health Center.
  - They may include persons employed by a community-based sexual assault crisis center (e.g., Compass) with whom the University partners.
  - While these confidential support persons have to report to the University that a violation may have occurred in order to protect the safety of the community, they can maintain confidentiality without releasing personal information.

Contact information for such Confidential Advisors on campus is as follows:

- a. Compass – Malone Advocate(s); Office: Brehme Centennial Center  
24-Hour Crisis Lines  
330-339-1427 (Tuscarawas & Carroll County)  
330-452-1111 (Stark County)
  
- b. Malone University Counseling Center, Mental Health Counselors  
Location: 3<sup>rd</sup> floor, Randall Campus Center  
Phone: 330-471-8711  
Email: [counselingcenter@malone.edu](mailto:counselingcenter@malone.edu)
  
- c. Student Health Services can also provide confidential care at  
330-471-8340 (or x.8340 from a campus phone)
  
- d. Non-Mental-Health Counselors/Spiritual Formation Office: Individuals who are ordained ministers who work in the Spiritual Formation Office can generally talk to a student without revealing any personally identifying information about an incident to the University. A student can seek assistance and support from these individuals without triggering a University investigation that could reveal the student’s identity or that the student has disclosed the incident.

Contact information for such non-mental-health counselors is as follows:

Spiritual Formation Office, Rev. Dr. Linda Leon  
Location: 2<sup>nd</sup> floor, Randall Campus Center (Barn)  
Phone: 330-471-8442

While maintaining confidentiality, these individuals or their office should report the nature, date, time, and general location of an incident to the Title IX Coordinator. This limited report – which includes no information that would directly or indirectly identify the student – helps keep the Title IX Coordinator informed of the general extent and nature of sexual discrimination, harassment and misconduct on and off campus so the Title IX Coordinator can track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses.

A student who speaks to a non-mental-health counselor or advocate must understand that, if the student wants to maintain confidentiality, the University’s ability to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator(s) may be diminished.

Even so, these counselors will still assist the student in receiving other necessary protection and support, such as victim advocacy, academic support or accommodations, disability, health or mental health services, and changes to living, working or course schedules. A student who at first requests confidentiality may later decide to file a complaint with the University or report the incident to law enforcement, and thus will have the incident fully investigated. These counselors and advocates will provide the student with assistance if the student wishes to do so.

Note: While these counselors may maintain a student confidentiality vis-à-vis the University, they may have reporting or other obligations under state law.

## MINORS

Any University employee who suspects or receives knowledge that a minor student may be an abused or neglected child or, for a student aged 18 through 21, an abused or neglected individual with a disability, is required to: 1) immediately report or cause a report to be made to the Ohio Department of Children and Family Services on its Child Abuse Hotline; and 2) follow directions given by this office concerning filing a written report within 48 hours with the nearest field office. (3) Alert the Director of Human Resources.

Also Note: If the University determines that the alleged perpetrator(s) pose a serious and immediate threat to the University community, the University Campus Safety Director may be called upon to issue a timely warning to the community. Any such warning will not include any information that identifies the survivor.

*See also the Minors on Campus: Youth Protection Policy for further information.*

### **B. Student Reporting to “Responsible Employees”**

A University employee has the duty to report incidents of sexual misconduct and is a person the student could reasonably believe has this authority or duty.

Responsible Employees are University designated employees who receive additional information and training about Title IX procedures. When a student tells a Responsible Employee about an incident of sexual discrimination, harassment or misconduct, the student has the right to expect the University to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

A Responsible Employee must report to the Title IX Coordinator all relevant details about the alleged sexual violence shared by the student survivor and that the University will need to determine what happened – including the names of the student survivor and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.

To the extent possible, information reported to a Responsible Employee will be shared only with people responsible for handling the University’s response to the report.

The following categories of employees are the University’s Responsible Employees:

- Title IX Coordinator
- Deputy Coordinators (HR, Athletic Director, Dean for CSS)
- Residence Life Staff
- Campus Safety Officers
- Chair of Student Appeals Committee
- Athletic Director
- Advisors of student clubs/organizations and Spiritual Formation Opportunities

Before a student survivor reveals any information to a Responsible Employee, the employee should ensure that the student survivor understands the employee’s reporting obligations – and, if the student

survivor wants to maintain confidentiality, direct the student survivor to the confidential resources listed above.

If the student survivor wants to tell the Responsible Employee what happened but also maintain confidentiality, the employee should tell the student survivor that the University will consider the request, but cannot guarantee that the University will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the Responsible Employee will also inform the Title IX Coordinator of the student survivor's request for confidentiality.

### **C. Student Requesting Confidentiality From the University: How the University Will Weigh the Request and Respond**

If a student survivor discloses an incident to an employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the University must weigh that request against the University's obligation to provide a safe, non-discriminatory environment for all students and employees, including the student survivor.

If the University honors the request for confidentiality, a student survivor must understand that the University's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be diminished.

Although rare, there are times when the University may not be able to honor a student survivor's request in order to provide a safe, non-discriminatory environment for all students and employees.

The University has designated the following individual(s) to evaluate requests for confidentiality:

- Title IX Coordinator and Deputy Coordinators
- Title IX Investigative Team
- Director of Human Resources
- Director of Campus Safety

When weighing a student request for confidentiality or that no investigation or discipline be pursued, a range of factors will be considered, including the following:

- The increased risk that the alleged perpetrator(s) will commit additional acts of sexual discrimination, harassment or misconduct, such as:
  - Whether there have been other sexual discrimination complaints about the same alleged perpetrator;
  - Whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of misconduct or violence;
  - Whether the alleged perpetrator threatened further sexual discrimination or violence against the student survivor or others;
  - Whether the sexual discrimination was committed by multiple perpetrators;
  - Whether the sexual discrimination, harassment or misconduct was perpetrated with a weapon;
  - Whether the student survivor is a minor;

- Whether the University possesses other means to obtain relevant evidence of the sexual discrimination, harassment or misconduct (e.g., security cameras or physical evidence); and
- Whether the student survivor’s report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead the University to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the University will likely respect the student survivor’s request for confidentiality.

**If the University determines that it cannot maintain student confidentiality**, the University will inform the student survivor at the earliest point possible and will, to the extent possible, only share information with people responsible for handling the University’s response.

**If the University determines that it can respect a student survivor’s request for confidentiality**, the University will also take immediate action as necessary to protect and assist the student survivor.

If a survivor’s request for confidentiality limits the University’s ability to formally investigate a particular allegation, the University may take steps to limit the effects of the alleged sexual discrimination, harassment and/or misconduct and prevent its recurrence without initiating formal action against the alleged perpetrator or revealing the identity of the student complainant. Such action may include, but is not limited to:

- Providing increased monitoring, supervision, or security at locations or activities where the alleged misconduct occurred;
- Providing training and education materials for students and employees;
- Revising and publicizing the University’s policies regarding sexual discrimination, harassment and misconduct; and
- Conducting climate surveys regarding sexual misconduct.

### **VIII. Employee Reporting and Disclosing Sexual Discrimination, Harassment and/or Misconduct of a Student**

In addition to the reporting requirements for Responsible Employees (see Section VII above), all University employees who have information regarding sexual discrimination, harassment and/or misconduct of a student are encouraged to report it to the Title IX Coordinator or Deputy Coordinators.

### **IX. Interim Measures**

The University will remain ever mindful of the survivor’s well-being, and will take ongoing steps to protect the survivor from retaliation or harm and work with the survivor to create a safety plan. Retaliation against the survivor, whether by students or University employees, will not be tolerated. The University will also:

- Assist the survivor in accessing other available victim advocacy, academic support, counseling, health or mental health services, and legal assistance;
- Provide other security and support, which could include the University obtaining a no-contact order, helping to change working arrangements or course schedules (including for the alleged perpetrator(s) pending the outcome of an investigation) or adjustments for assignments or tests; and
- Inform the survivor of the right to report a crime to campus or law enforcement – and provide the survivor with assistance if the survivor wishes to do so.

The University may not require a survivor to participate in any Title IX investigation or in a disciplinary proceeding against a student.

Because the University is under a continuing obligation to address the issue of sexual discrimination, harassment and misconduct campus-wide, reports of such incidents (including non-identifying reports) will also prompt the University to consider broader remedial action – such as increased monitoring, supervision, or security at locations where the reported incident occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments; and/or revisiting its policies and practices.

## **X. Miscellaneous**

**A. Take Back the Night and Other Public Awareness Events.** Public awareness events such as “Take Back the Night,” the Clothesline Project, candlelight vigils, or “Non-Violence Education” programming, or other forums in which students disclose incidents are not considered notice to the University of sexual discrimination, harassment or misconduct for purposes of triggering its obligation to investigate any particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts, and the University will provide information about students’ Title IX rights at these events.

**B. Electronic and/or Anonymous Reporting.** Although the University encourages survivors to talk to someone, the University provides for an online system for electronic reporting. The reporter may choose to provide his/her identity or may choose to report anonymously. The system will notify the user (before s/he enters information) that entering personally identifying information may serve as notice to the University for the purpose of triggering an investigation. Anonymous reports can be made by visiting Campus Shield or by calling 330-471-8711. Where a reporter chooses to provide his/her identity and contact information, the University shall respond to the reporter within 12 hours.

**C. Counselors and Advocates.** On-campus and off-campus counselors, advocates, and health care providers will also generally maintain confidentiality and not share information with the University unless the survivor requests the disclosure and signs a consent or waiver form. Contact information for such on-campus and off-campus resources is listed in Section VII - letter A.

**D. Clery Act Reporting Obligations.** Pursuant to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act,” 20 U.S.C. 1092(f)), the University maintains a public crime log and publishes an Annual Security Report available to all current students and employees. The ASR

documents three calendar years of select campus crime statistics (including statistics regarding incidents of dating violence, domestic violence, and stalking), security policies and procedures, and information on the basic rights guaranteed to survivors of sexual assault. The Clery Act also requires the University to issue timely warnings to the campus community about crimes that have already occurred but may continue to pose a serious or ongoing threat to students and employees.

## **XI. Title IX Complaint Investigation Procedures**

### **A. Investigation Procedures**

1. Initiation of Investigation by Title IX Coordinator or Deputy Coordinator: Upon receipt of a Title IX complaint of sexual discrimination, harassment and/or misconduct, including sexual violence, the Deputy Title IX Investigator will initiate a prompt, fair and thorough investigation. The investigation will be conducted by the Deputy Coordinator(s) and/or designated Title IX Resolution Team members, and the University will conclude the investigation within 60 calendar days or less of receiving written complaint. Where the allegations are complex or other factors delay the investigative process, an extension may be granted.

With respect to Title IX complaints that relate to a University employee as the survivor and/or complainant or as the respondent, the Title IX Coordinator/HR Director will partner with the Deputy Title IX Coordinator Investigator in investigating the complaint. In cases involving a University employee Respondent, the Department of Human Resources will recommend appropriate sanctions against the University employee respondent to Collegium.

2. Interim Measures Provided: During the investigation, the Deputy Coordinator will ensure the survivor and/or complainant receive written notice of and the opportunity to obtain Interim Measures as set forth in Section IX, above, and will advise the survivor and/or complainant of the right to file a complaint with Campus Safety or law enforcement agencies.

3. Notice to Respondent:

- a. Within 10-15 business days of receipt of a complaint, the respondent will be given written notice of the charges against him/her.
- b. The respondent will be advised of the nature of the evidence against him/her unless release of the evidence would endanger the health or safety of survivor(s) or witness(es).

4. Due Process Rights of Survivor and/or Complainant and Respondent

- a. A presumption of innocence throughout the grievance process will be upheld by the institution. Students and employees accused of misconduct must be presumed innocent until proven guilty.
- b. The survivor and/or complainant and student respondent will each be notified of the individual(s) with authority to make a finding or impose a sanction in their proceeding. Both parties will have the opportunity to request a substitution if the participation of an individual with authority to make a finding or impose a sanction poses a conflict of interest.

c. The survivor and/or complainant and student respondent will each be afforded the right to present information and witnesses relevant to his or her case.

d. When the survivor and/or complainant or student respondent is requested to appear at an investigatory meeting or proceeding related to a complaint, he or she may be accompanied by an advisor. An advisor is defined as a family member, peer, staff/faculty member of the University; it does not include legal counsel or an attorney at law. The advisor must comply with all rules prescribed by the University's complaint resolution procedure regarding the advisor's role. If the advisor violates the rules or engages in behavior or advocacy that harasses, abuses or intimidates either party, a witness, or an individual resolving the complaint, that advisor may be prohibited from further participation.

e. If the respondent is a University employee, then any employee misconduct investigation procedures outlined in applicable employee guidebooks will apply.

5. Evidence Considered: Investigators will interview and receive evidence from the survivor, complainant, respondent and any witnesses identified during the course of the investigation. The victim's prior sexual history with anyone other than the respondent will not be considered during the investigation or any proceeding related to a complaint. The mere fact of a current or previous consensual dating or sexual relationship between the victim and respondent does not itself imply consent or preclude a finding of sexual violence.

6. Preservation of Evidence: The Deputy Coordinator will provide the survivor and/or complainant with information regarding the importance of preserving physical evidence of sexual violence and the availability of medical forensic services. Any physical evidence gathered by the investigator will be preserved by Campus Safety.

7. Concurrent Criminal Investigation: The existence of a concurrent criminal investigation by law enforcement agencies will not necessarily delay or interrupt the investigation procedures outlined herein. However, the law enforcement agency may request that the University investigation be temporarily suspended. In such cases, the University will evaluate the law enforcement agency's request to determine whether and for how long to suspend its investigation. It is understood that during an ongoing criminal investigation, information relevant to the pending case or prosecution may not be permitted to be shared with the University until the criminal investigation is closed.

8. Report of Investigation: At the conclusion of the investigation, the Deputy Coordinators/investigator(s) will prepare a thorough report outlining the: complaint, investigation conducted and all relevant evidence obtained; investigator's conclusions with an explanation of reasoning and/or support for such conclusions; and recommendations for sanctions or other remedial action as appropriate. The investigator will submit his/her report to the Title IX Coordinator, Department of Human Resources and/or both, as appropriate as well as the Hearing/Conduct Officer for student cases.

## **B. Determination**

1. Determination Based Upon Preponderance of the Evidence: The hearing panel shall review the investigation report and all evidence gathered to determine whether the respondent engaged in sexual discrimination, harassment and/or misconduct in violation of University policy. The determination of

violations shall be made based on the preponderance of evidence, meaning whether it is more likely than not that this policy was violated.

2. Notice to Respondent: For student respondents, within seven (7) calendar days after receipt of the investigator's report, the Deputy Coordinator/Hearing Officer will notify the student respondent in person or via certified mail, return receipt requested, of his/her determination. If the Deputy Coordinator/Conduct Officer determines that the student respondent has violated the University's prohibition of sexual discrimination, harassment and/or misconduct, this notification will also advise the student respondent of:

- a. Disciplinary sanctions; and
- b. The right to appeal the determination and sanctions in accordance with the Appeal Procedures set forth in Section VIII, below.

For employee respondents, the Department of Human Resources will follow its obligation under any applicable University Policies and collective bargaining agreements in providing notice.

1. Notice to Complainant: Concurrently with the notice provided to respondent, the Deputy Coordinator HR will notify the complainant via certified mail, return receipt requested, of his/her determination. If the Deputy Coordinator HR determines that the respondent has violated the University's prohibition of sexual discrimination, harassment and/or misconduct, this notification will also advise the survivor and/or complainant of:

- a. Any individual remedies offered or provided to the complainant;
- b. Disciplinary sanctions imposed on the respondent that directly relate to the survivor and/or complainant;
- c. In sexual violence cases only, any disciplinary sanctions imposed on the respondent;
- d. The right to appeal the determination and sanctions in accordance with the Appeal Procedures set forth in Section XII, below; and
- e. If the University determines that a hostile environment exists, it will inform the complainant of steps it has taken to eliminate the hostile environment and to prevent recurrence.

### **C. Sanctions, Protective Actions, and Remedies**

1. Sanctions. Student respondents who have violated the University's prohibition of sexual discrimination, harassment and/or misconduct are subject to any sanctions set forth in the University's Student Code of Conduct, up to and including expulsion.

University employee respondents who have violated the University's prohibition of sexual discrimination, harassment and/or misconduct will be subject to disciplinary action up to and including termination, consistent with any applicable employee guidebooks and/or collective bargaining agreement obligations.

2. Protective Actions. The University may take protective measures as appropriate, including no-contact orders, trespass notices, or other protective measures. Campus Safety will enforce court ordered no-contact, restraining and/or protective orders to the fullest extent of the law.

3. Remedies. The University will administer remedies for the complainant depending upon the specific nature of the complaint. In addition, the University may administer remedies for the University community as a whole.

Remedies for the complainant may include, but are not limited to:

- Assisting the complainant to change his/her academic and/or work environment if requested and if reasonably available;
- Offering an escort to ensure that the complainant can move safely between classes and activities;
- Ensuring that the complainant and the respondent do not attend the same classes;
- Offering counseling services;
- Offering medical services;
- Offering academic support services, such as tutoring;
- Arranging for the complainant to retake 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 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 survivor and/or complainant being disciplined.

Remedies for the University community as a whole may include, but are not limited to:

- Offering counseling/mental health, or other holistic and comprehensive survivor services to all students and employees affected by sexual discrimination, harassment, and/or misconduct;
- Designating an individual from the University's counseling center to be available to assist survivors of sexual discrimination, harassment, and/or misconduct whenever needed;
- Developing materials on sexual discrimination, harassment and misconduct for campus-wide distribution to students, employees, and/or third-parties;
- Creating a committee of students and University officials to identify strategies for preventing and addressing sexual discrimination, harassment and misconduct; and

- Conducting periodic climate surveys to identify how students and employees perceive and experience sexual discrimination, harassment and misconduct at the University.

### **Informal Resolution of Reports and Complaints**

- A. Complaints and reports of discrimination, harassment and retaliation may be resolved informally.
- B. An informal resolution may consist of: individual or joint discussions facilitated by a designee of the Title IX Resolution Team with the Complainant and/or Respondent, an appropriate administrator or others, or guidance from the Title IX Coordinator to the reporting party about options or strategies for resolving the concern.
- C. Any party or the Title IX team may terminate the informal process at any time.
- D. At any point during or after efforts are taken to achieve an informal resolution, the Title IX team, the Complainant and/or the Respondent may determine that an investigation is required to resolve the concern and initiate a Complaint, if applicable.
- E. The informal resolution process may occur concurrently with an ongoing investigation of a Complaint.

## **XII. Title IX Appeal Procedures for Complainants and Student Respondents**

A complainant or a student respondent who wishes to appeal the decision reached by the Deputy Coordinator at the conclusion of a formal investigation must submit a written request for appeal to the Title IX Coordinator within 48 hours after receipt of the Deputy Coordinator's letter of determination.

The appeal request must be typewritten and must state the grounds for appeal. Appeals must be made on the basis of one or more of the following grounds:

1. Procedural error was committed.
2. The finding of facts contained in the decision included inaccurate information.
3. New evidence not offered during the investigation that would substantially change the outcome of the finding is now available. In such cases, the new evidence must be described.

Within 10 business days after receipt of the appeal request, the Appeals Committee will decide whether to grant the appeal based on whether the appeal meets one of the above enumerated grounds for appeal and shall inform the appellant by email or USPS, return receipt requested.

If the appeal is granted, the Appeals Committee may hold a hearing or review and consider the written findings and decision from the Deputy Title IX Coordinator/Hearing Officer and Investigator, any written documentation submitted by either party to the Deputy Coordinator, all evidence considered by the Deputy Coordinator Investigator(s), the written appeal and, if applicable, new evidence offered for consideration. The Deputy Coordinator(s) or their designee will provide all relevant documentation to the Appeals Committee. The chair of the Appeals Committee shall render a decision within seven (7) to fourteen (14) calendar days after receipt of the appeal and shall inform both the survivor and/or complainant and the student respondent, concurrently, by email or certified mail. The decision of the Appeals Committee shall be final.

In the event a survivor and/or complainant or a student respondent does not appeal within the 48 hour required period, the decision of the Deputy Title IX Coordinator/Hearing Officer will be final.

If the respondent is a University employee, then any employee misconduct appeal procedures outlined in applicable employee guidebooks will apply.

### **XIII. Prevention and Education for Students**

The University will review on an ongoing basis, its sexual discrimination, harassment and misconduct prevention and education programming to ensure students and employees are provided substantive opportunities to learn about sexual discrimination, harassment and misconduct, including primary prevention, bystander intervention, risk reduction, consent, reporting methods, relevant University policies and procedures, retaliation, survivor-centered and trauma-informed response relevant definitions, and other pertinent topics.

The University, in conjunction with the Title IX Resolution Team will annually review its prevention and education offerings to identify ways in which to enhance its effectiveness.

### **XIV. Training**

The Title IX Coordinator, Deputy Coordinator(s), Campus Safety, Responsible Employees, advocates, and anyone else involved in the receipt of reports of, responding to, investigating or adjudicating alleged incidents of sexual discrimination, harassment and misconduct receive annual education and training on primary prevention, bystander intervention, risk reduction, consent, reporting obligations, investigation procedures, confidentiality requirements, relevant University policies and procedures, retaliation, survivor-centered and trauma-informed response, relevant definitions, and other pertinent topics.

In addition to the above training, individuals who resolve complaints receive annual training on issues related to sexual violence, domestic violence, dating violence, and stalking and how to conduct the University's complaint investigation and appeal procedures pursuant to Articles XI and XII, above.

All confidential resource support persons receive training on sexual violence before being designated a confidential resource person. Annually thereafter, they attend ongoing educational training on issues related to sexual violence, and they receive periodic training on the University administrative process, interim protective measures and accommodations, and the University's complaint investigation and appeal procedures pursuant to Articles XI and XII, above.

The University will annually review its training offerings to identify ways in which to enhance its effectiveness.

### **XIV. Execution of Training/Awareness Campaign/Programming (Building a culture of consent):**

- August & January Orientation: Every incoming student watches an educational video on consent and dating violence, receives a brief description on consent and how to report incidents of dating violence. Students receive a pocket-education card also.
- The Office of Student Development and Compass Education Provider collaborate to arrange meetings with all coaches (Annually/September) for sex assault prevention training. In addition,

explanations on sexual assault, harassment and legal repercussions of violations are given. A plan has been created for every team to receive training by Compass on Title IX.

- The Office of Student Development and Compass Education Providers also address returning students regarding Title IX reporting procedures in an annual compliance meeting for all returning athletes.
- Title IX Coordinator, Deputy Coordinators & Campus Safety Director attend off-site training annually.
- Those identified as “Responsible Employees” will receive annual training on Title IX policy and procedures including dialogue about ways to enhance effectiveness of awareness campaign on campus. For example, Resident Directors receive annual education/training (Fall) on Title IX policy and procedures.
- Resident Assistants and Course Assistants receive annual Title IX training by Compass in August.
- Compass Educators provide programming on dating violence, consent, etc. to all students annually in the fall, set up education/information table in Great Hall, and hold regularly, weekly office hours for individual meetings with student. This also includes passive programming such as bulletin boards awareness campaigns.
- Compass Educators provide by-stander training to all students, staff, faculty (Annually/Spring). Also includes Spiritual Formation Credit to give incentive for attendance to students.
- Student Development co-sponsor an awareness program in conjunction with our Social Work department, Take Back the Night (Annually/October) at the Canton Cultural Arts Center.
- University completes Campus Climate Survey every two years; submits annual reports to Ohio Department of Higher Education.
- Website: Title IX policy, reporting procedure, and crime statistics are available and updated annually on Malone website (<https://www.malone.edu/student-life/wellness-safety/title-ix/>).

## **XVI. Procedures Governing Complaints Solely Involving Employees and/or Third Parties**

An employee or third party should notify the Department of Human Resources’ Director of Human Resource if he or she believes that the University, its employees or agents have engaged in sexual discrimination, harassment or misconduct of an employee or third party.

An employee or student who believes a third party related to university work or study has engaged in sexual discrimination, harassment or misconduct should notify the Department of Human Resources’ Director.

The Director of Human Resource Operations may attempt to resolve complaints informally. However, if a formal complaint is filed, the Director of Human Resource Operations will address the complaint promptly and equitably as follows.

### **A. Filing a Complaint**

An employee or third party (hereinafter “Complainant”) who wishes to avail him or herself of this procedure may do so by filing a complaint with the Director of Human Resources. The Director of Human Resources will request the Complainant to provide a written statement regarding the nature of the complaint and will require a meeting with the Complainant. The Director of Human Resource Operations shall assist the Complainant as needed.

## B. Investigation

Each complaint shall be investigated promptly, thoroughly, impartially, and as confidentially as possible. The Director of Human Resources will investigate the complaint or appoint a qualified person to undertake the investigation on his/her behalf. The complaint and identity of the Complainant will not be disclosed except as required by law, as necessary to fully investigate the complaint, or as authorized by the Complainant. As a general rule, all complaints will be investigated, even when the Complainant requests that nothing be done.

1. The Director of Human Resources or his/her designated investigator (hereinafter "investigator") will investigate all complaints or allegations of sexual discrimination, harassment, or misconduct, except that, depending on the circumstances, the Director of Human Resources may appoint a special investigator. The appointment of a special investigator does not preclude the involvement or assistance of the Director of Human Resources in the investigation. Whenever the Director of Human Resources deems necessary, a third party (e.g., an attorney) may serve as a special investigator. The investigator should not have any involvement with the Complainant or the alleged wrongdoer outside of the investigation. The Director of Human Resources will ensure that investigators have sufficient authority and resources.

2. The investigator will inform potential complainants, complainants, and witnesses that the University prohibits any form of retaliation against anyone who, in good faith, brings a complaint, provides information to the individual investigating a complaint, or otherwise participates in the complaint resolution process.

3. The investigator will provide a fair opportunity for both sides to be heard.

4. During the investigation, the investigation file will be kept separate from personnel record files.

5. The investigator will prepare a comprehensive written report of his/her findings and will provide the report to the Director of Human Resources. If a complaint of sexual discrimination, harassment or misconduct contains allegations involving the Director of Human Resources, the written report shall be provided directly to the University President, who will make a decision in accordance with Section D, below.

6. Employee misconduct investigation procedures outlined in applicable employee guidebooks and/or collective bargaining agreements will apply.

## C. Decision

Within 15 business days after receiving the investigator's report, the Director of Human Resources shall mail his or her written decision to the Complainant by U.S. mail, first class. A copy will be placed in the investigation file.

## D. Appeal

Employee misconduct appeal procedures outlined in applicable employee guidebooks and/or collective bargaining agreements will apply.

## APPENDIX A: TITLE IX RESOLUTION TEAM

### TITLE IX INTERIM COORDINATOR

- **Melody Scott**  
Dean of Students  
Randall Campus Center, (Barn) 2<sup>nd</sup> level  
mscott@malone.edu  
330-471-8158

The Title IX Coordinator oversees monitoring of University policy in relation to Title IX legal developments such as: implementation of grievance procedures, including notification, investigation, and disposition of complaints provision of educational materials and training for the campus community conducting and/or coordinating investigations of complaints received pursuant to Title IX ensuring a fair and neutral process for all parties, and monitoring all other aspects of the University's Title IX compliance.

### TITLE IX DEPUTY COORDINATOR DESIGNEES

- **Student Conduct/Lead Hearing Officer**  
Christina Schnyders, Interim  
Provost's Office  
Founders Hall  
330-471-8119
- **Informal Resolution Mediator**  
Andrea Ramsey  
Malone University  
2600 Cleveland Ave.  
Canton, Oh 44709  
330-471-8328 or aramsey@malone.edu
- **Lead Investigator**  
Anna Meadows, Director for the Student Success Center  
Center for Student Success, Library  
330-471-8496 or email [ameadows@malone.edu](mailto:ameadows@malone.edu)
- **Lead Investigator**  
Jen (Vannest) Tobias, Student Accessibility Services  
Center for Student Success, Library  
330-471-8496 or email [jtobias@malone.edu](mailto:jtobias@malone.edu)
- **Campus Safety Director/Investigator**  
Jack Angelo  
Haviland Hall, Ground Level  
330-471-8251 or [jangelo@malone.edu](mailto:jangelo@malone.edu)

- **Athletics Representative – Tonya Hockman (Hearing Panel Alternate)**
- **Appeals Committee Chair** - Holly Kibler, Faculty member appointed to Appeals Committee

**Links:** Student Handbook, Appendix A – Campus and Malone-related Sexual Misconduct Policy

## **APPENDIX B: (Sample Memo)**

**Faculty & Staff Reporting Obligations Under Title IX**

Employees, not already designated as confidential resource support persons, are considered to be mandated reporters. Therefore, you are **required to report any allegation of sexual misconduct or harassment that** is reported to you, or that you learn about, within 24 hours to the Title IX Coordinator who is responsible for addressing allegations of these types of misconduct.

*The notification must provide the following:*

- the name of the alleged victim
- the name of the alleged perpetrator
- the name of the person providing the information (if different from the alleged victim)
- the names of witnesses
- basic facts of the incident, and
- the date, time and location of the incident

### **Informing the Individual of Your Reporting Obligation**

1. When an employee or student approaches you about an allegation of sexual misconduct or harassment, first make sure that the individual is safe and provide information about where he or she can get assistance.
2. Before an employee or student reveals any information about the incident, you must inform him or her that you are obligated to notify the Title IX Coordinator about your meeting and share the information that you receive.
3. Assure the individual that the University takes allegations of sexual misconduct and harassment seriously, will take immediate and appropriate steps to investigate, and will resolve the matter promptly and fairly.
4. Inform the individual that the Title IX Coordinator or Designee will contact him or her after receiving notification.

### **Requests for Confidentiality**

If the individual seeks to maintain confidentiality and does not want his or her identity revealed to the Title IX Coordinator or Designee, stop the conversation and direct the individual to employees who can maintain confidentiality. On campus, these include:

1. Counselors at University Counseling Center: 330-471-8711 (or 8711 from a campus phone)
2. Ordained pastors at the Spiritual Formation Office: 330-471-8442 (or 8442 from a campus phone)
3. Student Health Services 330-471-8340 (or 8340 from a campus phone)
4. Compass Advocates in Brehme Centennial Center: 330-471-8448

Employees and volunteers in these offices will provide basic information about the incident to the Title IX Coordinator so that the University can maintain a record of reported sexual misconduct and harassment cases and identify any patterns that might exist. However, these offices will *not* provide information that will reveal the alleged victim's identity.

***If the individual would like to tell you what happened but also wants to maintain confidentiality:***

1. Remind the individual that you must report any information that is revealed about the incident to the Title IX Coordinator or Designee.
2. Tell the individual that you will include notice in your report that he or she requests confidentiality.
3. Inform the individual that once the Title IX Coordinator or Designee is notified, the University will consider a request for confidentiality, but cannot guarantee that it will be honored.
4. Inform the individual that if the University is able to assure confidentiality, its capacity to respond fully to an allegation may be limited by honoring the individual's request to remain anonymous.

The University must balance the complainant's privacy request with our obligation to provide a safe and nondiscriminatory environment. Maintaining confidentiality may limit our ability to pursue disciplinary action against the person who is identified as the perpetrator and whose rights must be protected as well. However, if the University is able to honor the request for anonymity and confidentiality, it sometimes can take steps to respond to complaints in ways other than confronting the accused.

Assure the individual that MU will respect his or her privacy and other interests, to the extent possible, and will work with him or her to resolve the matter in a prompt and fair manner. MU will not require an alleged victim to participate in any investigation or disciplinary proceeding against his or her will.

## **Protective Measures**

Assure the individual that whatever he or she decides to do, University policy provides protective measures against retaliation; that academic, living and working accommodations are available; and that activity restrictions and interim suspensions can be used for limiting contact between the individual and the alleged perpetrator. Also, assure the individual that if he or she files a report, his or her privacy will be protected by limiting the number of people who will be informed of the incident to those who are directly involved in resolving it and that all records will be kept confidential with limited access to them.

## **Types of Sexual Misconduct**

1. **Sexual Assault:** No person shall perpetrate, without consent, any of the following: vaginal intercourse between a male and a female; anal intercourse, fellatio, or cunnilingus between persons regardless of sex; or the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal cavity of another. Penetration, however slight, is sufficient to constitute vaginal or anal intercourse. Sexual Assault is also known as rape.
2. **Sexual Contact:** Touching intimate parts of another's body including without limitation the thigh, genitals, buttocks, pubic region, or breast, or clothing covering any of those areas, or causing a person to touch his or her own or another's intimate parts, without consent.
3. **Stalking:** No person will engage in a course of conduct directed at another person that would cause a reasonable person to a) fear for his or her safety or the safety of others, or b) suffer substantial emotional distress.
4. **Sexual Exploitation:** Includes, without limitation, publicly exposing one's private parts, publicly engaging in masturbation, or publicly engaging in other sexual conduct. Also includes surreptitiously invading the privacy of another by spying or eavesdropping upon that person with the purpose or effect of assisting or enhancing one's sexual gratification; causing or

attempting to cause the incapacitation of another person in order to gain a sexual advantage over that person; causing the prostitution of another person; digital recording, photographing and/or transmitting images of private sexual activity and/or the intimate parts of another's body, including without limitation the thigh, genitals, buttocks, pubic region, or breast without consent; allowing third parties to observe private sexual acts without consent; and/or knowingly or recklessly exposing another person to a significant risk or sexually transmitted infection.

5. **Dating Violence:** This can be a form of sexual misconduct committed by a person who is, or has been, in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship will be determined based on the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
6. **Domestic Violence:** Domestic violence also can be a form of sexual misconduct. It includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse or intimate partner of the victim under the domestic or family violence laws of the relevant jurisdiction, or by any other person against an adult or youth who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
7. **Sexual Harassment:** Sexual Harassment is considered to be both a type of sexual misconduct and a type of harassment.

### **Types of Harassment: Non-Prejudicial Harassment and Prejudicial Harassment**

**Non-Prejudicial Harassment** is defined as words, nonverbal symbols, or actions that are:

- directed toward another individual
- unwanted
- severe or pervasive enough to substantially interfere with that person's learning, living, and working experience at MU, and thereby create a hostile environment
- outside the realm of appropriate academic study or practice.

A hostile environment can be created by a series of events or a single event. When considering whether a hostile environment exists, both objective and subjective standards will be considered.

**Prejudicial Harassment** is defined as words, nonverbal symbols or actions that are:

- directed at an individual because of person's race, color, gender, gender identity and/or expression, sexual orientation, family configuration, religion, national origin, age, disability or military status
- unwanted
- severe or pervasive enough to substantially interfere with a person's learning, living, and working experience at MU, and thereby create a hostile environment
- outside the realm of appropriate academic study or practice.

A hostile environment can be created by a series of events or a single event. When considering whether a hostile environment exists, both objective and subjective standards will be considered.

**Sexual Harassment** is a specific form of Prejudicial Harassment that is defined in two broad categories:

1. *Quid Pro Quo* sexual harassment which can involve 1) promises or favors, such as when a tutor offers assistance that could lead to a student getting a higher grade or when a student leader promises membership in a club/organization in return for submission to sexual advances, or other unwelcome attention based on gender or sexuality; 2) threats, such as spreading rumors, threatening demotions within clubs/organizations, or other unwelcome attention based on an individual's refusal to submit to a sexual or romantic relationship, granting sexual favors, or engaging in other sexual or unwelcome activities based on gender or sexuality. Quid pro quo sexual harassment can be overt or implied from the conduct, circumstances and relationship of the individuals involved.
2. *Hostile Environment* sexual harassment exists when words, nonverbal symbols or actions are:
  - directed toward another individual because of that individual's gender, gender identity and/or expression, or sexual orientation
  - unwanted
  - severe or pervasive enough to substantially interfere with a person's learning, living, and working experience at MU, and thereby create a hostile environment
  - outside the realm of appropriate academic study or practice.

A hostile environment can be created by a series of events or a single event. When considering whether a hostile environment exists, both objective and subjective standards will be considered.

### **Educating on Consent**

Consent is when a person freely, actively and knowingly gives clear permission at the time to engage in a mutually agreed upon sexual activity with a particular person. Consent may not be inferred from silence, passivity, or a lack of verbal or physical resistance.

- A person's manner of dress does not constitute consent.
- Past consent to sexual activities, or a current or previous dating relationship, does not imply ongoing or future consent.
- Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse).
- Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another person.
- Consent may be withdrawn at any time.
- A person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to circumstances, including without limitation the following: 1) the person is incapacitated due to the use or influence of alcohol or drugs; 2) the person is asleep or unconscious; 3) the person is under age; or 4) the person is incapacitated due to a mental disability. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred. Coercion, force, or the threat of either invalidates consent.

### **Your Cooperation is Key**

When you are not sure if a particular form of conduct is covered by these policies, err on the side of reporting. Recognize that these reporting requirements can put you in an awkward position. An individual who undoubtedly trusts and respects you seeks your assistance following a traumatic event,

but before the individual can say anything, you must inform him or her that you are obligated to report whatever he or she tells you.

Reporting requirements are designed to balance two sometimes competing goals:

1. The first is to assure that the University addresses allegations of sexual misconduct and harassment. To achieve this, Title IX requires Universities to designate officials responsible for addressing allegations of misconduct and to put in place a process for getting information to them in a systematic and timely way.
2. The second goal is based on the understanding that sexual misconduct and harassment are traumatic events and that victims often need time and space to consider their options. Having someone to speak to in confidence is often critical to these considerations.

You are the front line in striking a balance between these two important goals.

For more information, see the Sexual Misconduct Policy in the Student Handbook and the MU Harassment Policy. Information provided below:

- For cases in which students are accused: Title IX Policy & Grievance Procedures
- For cases in which an employee is accused: Harassment Policy

## **APPENDIX C: Where to Call for Help**

**WHERE TO CALL FOR HELP ON CAMPUS**

**Emergency**

Campus Emergency: 330-471-8111  
Emergency Rescue: 9-911  
Campus Shield Safety App

**Medical**

MU Student Health Services  
330-471-8340

**Counseling and Aftercare**

Malone University Counseling Center  
3<sup>rd</sup> Floor, Randall Campus Center  
330-471-8711  
[counselingcenter@malone.edu](mailto:counselingcenter@malone.edu)

**Compass, Inc.**

Brehme Centennial Center  
330-471-8448  
24-Hour Crisis Line  
Stark County: 330-452-1111  
Tuscarawas & Carroll County: 330-339-1427  
\*Compass is a free, confidential service on campus by a third party; they are not employees of Malone.

**Residential Life Staff**

Blossom Hall & Heritage Hall: 330-471-7119  
Woolman-Whittier Halls: 330-471-7523  
Fox/Haviland Halls: 330-471-7441  
DeVol Hall: 330-471-7531

**Student Development Office: 330-471-8273**

**WHERE TO CALL FOR HELP OFF CAMPUS**

**Medical**

Mercy Medical Center  
330-489-1000  
1320 Mercy Drive Northwest  
Canton, OH 44710

Aultman Hospital  
330-452-9911  
2600 6<sup>th</sup> Street NW  
Canton, OH 44710

**Rape/Crisis Lines and Assistance – 24 Hours**

National Domestic Violence Hotline Number  
1-800-799-(SAFE)7233

Compass, Inc.  
330-452-1111  
24-Hour Crisis Line  
Stark County: 330-452-1111  
Tuscarawas & Carroll County: 330-339-1427

Domestic Violence Project, Inc.  
Canton, OH 44711-9459  
Phone: 330-445-2000  
24-Hour Confidential Hotline: 330-453-7233

Ohio Domestic Violence Network  
National Domestic Violence Hotline Number:  
1-800-799-(SAFE) 7233

Choices for Victims of Domestic Violence  
24 Hour Hotline: 614-224-4663  
\*Provides temporary shelter, legal advice, counseling, and information.

Rape Crisis – American Red Cross  
408 9<sup>th</sup> Street SW  
Canton, OH 44707  
330-453-0146  
330-452-1111

RAINN-Rape, Abuse, & Incest National Network Hotline  
1-800-656-HOPE

Sexual Assault Response Network of Central Ohio (SARNCO)  
614-267-7020