Marietta College Policy on Gender-Based Harassment, Discrimination, and Misconduct

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Marietta College Policy on Gender-Based Harassment, Discrimination, and Misconduct

I. Scope of Policy

Marietta College is committed to providing a safe learning and working environment free from discrimination and harassment on the basis of sex. Title IX of the Education Amendments of 1972 prohibits the College from discriminating on the basis of sex in its education program or activities. Prohibited Conduct under this Policy is also prohibited under the Clery Act as amended by VAWA, Title VII of the Civil Rights Act of 1964, and other applicable statutes, regulations and administrative code provisions. Sex discrimination, sexual harassment, and other forms of sexual misconduct are collectively referred to as "Prohibited Conduct" and are defined in more detail below.

This Policy applies to all forms of Prohibited Conduct that occur in relation to the College's academic, educational, extracurricular, athletic, and other programs, as well as Prohibited Conduct that occurs in relation to admission and employment with the College. The College maintains jurisdiction over Prohibited Conduct that occurs on campus, that occurs off-campus in the context of any College programs or activities, or that occurs off-campus and has a continuing effect on campus or on any member of the College community. The Policy applies to all students, staff members, faculty members, Board of Trustees members, guests, visitors, consultants, vendors, and other members of the College Community. All Prohibited Conduct is handled according to this Policy regardless of the identities of the Complainant or Respondent. The College will provide a prompt and equitable resolution of student and employee complaints.

When informed of Prohibited Conduct as defined by this Policy, the College will promptly respond to individuals who experience the Prohibited Conduct by offering supportive measures; follow a fair grievance procedure to resolve Prohibited Conduct allegations when a Complainant requests an investigation or the Title IX Coordinator decides on the College's behalf that an investigation is necessary; and provide remedies to those who experience Prohibited Conduct.

For purposes of the College's process, the subject of the Prohibited Conduct is referred to as the Complainant, and the alleged perpetrator of the Prohibited Conduct is referred to as the Respondent. The Complainant may or may not be the reporter of the Prohibited Conduct. Both the Complainant and the Respondent are referred to as the parties for purposes of this process. In certain circumstances, the College may serve as the Complainant in a formal complaint.

II. Non-Discrimination Notice and Designation of Title IX Coordinator

Title IX prohibits the College from discrimination on the basis of sex in the education programs or activities that it operates. This prohibition extends to admission and employment. This Policy provides for the prompt and equitable resolution of complaints alleging any action prohibited by Title IX, and explains the process that the College will use for doing so.

The Title IX Coordinator has been designated and authorized to coordinate the College's efforts to address concerns relating to discrimination and harassment on the basis of sex, gender, gender

identity, and sexual orientation. Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person who experienced the conduct that could constitute sex discrimination or sexual harassment), at any time, including non-business hours, by contacting the Title IX Coordinator or one of the Deputy Title IX Coordinators as follows:

Dr. Richard Danford
Title IX Coordinator
Vice-President for Student Life
102 Andrews Hall
(740) 376-4899
danfordr@marietta.edu

Amanda Copeland
Deputy Title IX Coordinator
Assistant Professor of Leadership Studies
103 McDonough Center for Leadership and Business
(740) 376-4642
am002@marietta.edu

Jenn Castle
Deputy Title IX Coordinator
Senior Woman Administrator and Head Coach – Softball
Dyson Baudo Recreation Center 203
(740) 376-4668
ja003@marietta.edu

Additionally, reports can be submitted online using the following link:

https://cm.maxient.com/reportingform.php?MariettaCollege=&layout_id=2

Inquiries about Title IX may also be directed to the U.S. Department of Education's Office for Civil Rights by contacting 1-800-421-3481 or emailing ocr@ed.gov.

Reports of Prohibited Conduct under this Policy committed by the Title IX Coordinator should be reported to Marietta College President Dr. Kathleen Poorman Dougherty at (740) 376-4701. Reports of Prohibited Conduct under this Policy committed by President Dougherty should be reported to the Chair of the Marietta College Board of Trustees. Reports of Prohibited Conduct committed by any other administrator involved in the resolution process should be reported to the Title IX Coordinator.

While this Policy concerns discrimination on the basis of sex, gender, gender identity, and sexual orientation, a complete Notice of Non-Discrimination regarding all protected traits can be found on the College's website: https://www.inmarietta.edu/sites/default/files/2023-07/MC_Notice_of_Non-Discrimination_7-27-23.pdf

Under this Policy, any of the Title IX Coordinator's duties may be performed by and discretion may be exercised by a designee, including, but not limited to, one of the Deputy Title IX Coordinators.

III. Prohibited Conduct Under This Policy

This Policy prohibits Sex/Gender Discrimination; Sex/Gender Harassment; Sexual Harassment – Title IX, Sexual Harassment – Non Title IX; Sexual Assault – Non-Title IX; Dating Violence – Non Title IX; Domestic Violence – Non Title IX; Stalking – Non Title IX; Sexual Exploitation – Non Title IX; and Retaliation. Together, these are referred to as Prohibited Conduct.

A. Sex/Gender Discrimination

Sex/Gender Discrimination is when an individual is, on the basis of sex/gender:

- Treated differently in determining whether such person satisfies any requirement or condition for the provision of any aid, benefit, or service;
- Provided different aid, benefits, or services;
- Provided aid, benefits, or services in a different manner;
- Denied any aid, benefit, or service;
- Subjected to separate or different rules of behavior, sanctions, or other treatment;
- Treated differently concerning the domicile or residence of a student or applicant, including eligibility for in-state fees and tuition;
- Discriminated against by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex/gender in providing any aid, benefit, or service to students or employees;
- Otherwise limited in the enjoyment of any right, privilege, advantage, or opportunity with regards to aid, benefits, or services; or
- Treated differently with regard to terms, conditions, or benefits of employment, or in the recruitment, consideration, or selection thereof.

Discrimination on the basis of sex/gender in employment is permissible in situations where sex/gender is a bona fide occupational qualification reasonably necessary to the normal operation of the College.

Examples of conduct that may form the basis of a Sex/Gender Discrimination complaint include, but are not limited to:

- Offering higher academic grades to students of a particular sex/gender;
- Silencing students of a particular sex/gender in classroom discussion;
- Referring to members of a particular sex by a derogatory name related to their sex.

Note that the federal regulations regarding Title IX include certain exceptions, such as single-sex housing, athletic participation, and chorus participation, that do not constitute Sex/Gender Discrimination. These limited permissible exceptions, found in Title 34 of the Code of Federal

Regulations, Part 106, will be considered when determining whether Prohibited Conduct occurred under this Policy.

B. Sex/Gender Harassment

Sex/Gender Harassment is non-sexual harassment[1] on the basis of one's sex/gender when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or grade in a program, course, or activity;
- Submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting an individual; or
- Such conduct is sufficiently pervasive, offensive, or abusive to have the purpose or reasonable effect of interfering with an individual's work or educational performance, or creating an intimidating, hostile, or offensive work environment, under both an objective and subjective standard. A single incident may create a hostile environment if the incident is sufficiently severe.

The determination as to whether a hostile environment exists is based on the totality of the circumstances, including but not limited to:

- The nature and severity of the conduct;
- The type, frequency, and duration of the conduct;
- The identity of and relationship between the Respondent and the Complainant;
- The number of individuals involved;
- The age and maturity levels of the Respondent and Complainant; and
- The location of the conduct and the context in which it occurred.

C. Sexual Harassment – Title IX

There are six types of prohibited conduct that qualify as "sexual harassment" under Title IX, each of which is defined more specifically below: (1) quid pro quo, (2) unwelcome conduct, (3) sexual assault, (4) dating violence, (5) domestic violence, and (6) stalking. The definitions used here are required by federal regulations.

For reported behavior to qualify as prohibited conduct under this section, in addition to meeting the elements of the specific type of sexual harassment below, it must meet all of the following threshold requirements, as determined by the Title IX Coordinator and as mandated by federal regulations:

- The conduct must have occurred against a person in the United States.
- The conduct must have occurred within the College's education program or activity. For purposes of this provision, this means that the conduct must have occurred either (a) in a location, event, or circumstances over which the College

[1] Sex/Gender Harassment does not include Prohibited Conduct that would constitute Sexual Harassment – Title IX under this Policy.

exercised substantial control over both the Respondent and the context in which the sexual harassment occurs or (b) in relation to a building owned or controlled by a student organization that is officially recognized by the College.

- The Complainant must be participating in or attempting to participate in the education program or activity of the College at the time the formal complaint is filed.

A complaint about behavior that ultimately is shown not to meet these **threshold requirements** is subject to dismissal under Title IX, but it may still be resolved through the Investigative Resolution Process as described in Section VII(G)3.

Sexual Harassment – Title IX is any of the following:

(1) *Quid Pro Quo* - Conduct on the basis of sex where a College employee conditions the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct;
(2) *Unwelcome Conduct* - Unwelcome conduct on the basis of sex determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or
(3) "Sexual Assault" is engaging or attempting to engage in one of the following activities with another individual without consent or where the individual cannot consent because of age or temporary or permanent mental incapacity:
    a. Sexual penetration (anal, oral, or genital), including penetration with a body part (e.g. penis, finger, hand, or tongue) or an object, however slight;
    b. Intentional touching of the intimate body parts of another, or intentional touching with one's intimate body parts, for the purpose of sexual gratification. Intimate body parts include but are not limited to, the mouth, neck, buttocks, anus, groin, genitalia, breast, or the clothing covering these parts; however, sexual contact can occur with any part of the body;
    c. Sexual intercourse (anal, oral, or genital) when prohibited by state law, including sexual intercourse between individuals who are not permitted to marry, and sexual intercourse with a person who is under the statutory age of consent.
(4) "Dating violence" means violence committed by a person on the basis of sex:
    a. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
    b. Where the existence of such a relationship shall be determined based on a consideration of the following factors:
        i. The length of the relationship;
        ii. The type of relationship;
        iii. The frequency of interaction between the persons involved in the relationship.
(5) "Domestic violence," which is defined to include felony or misdemeanor crimes of violence committed on the basis of sex:
    a. by a current or former spouse or intimate partner of the victim;

b. by a person with whom the victim shares a child in common;
c. by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
d. by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction; or
e. by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

(6) "Stalking" means engaging in a course of conduct on the basis of sex directed at a specific 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.

D. Sexual Harassment – Non Title IX

Sexual Harassment – Non Title IX is unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, evaluation of academic work, or any aspect of a College program, course, or activity;
- Submission to or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting an individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, or creating an intimidating, hostile, or offensive working or educational environment, under both an objective and subjective standard. A single incident may create a hostile environment if the incident is sufficiently severe.

The determination as to whether a hostile environment exists is based on the totality of the circumstances, including but not limited to:

- The nature and severity of the conduct;
- The type, frequency, and duration of the conduct;
- The identity of and relationship between the Respondent and the Complainant;
- The number of individuals involved;
- The age and maturity levels of the Respondent and Complainant; and
- The location of the conduct and the context in which it occurred.

Examples of conduct that may form the basis of a Sexual Harassment – Non Title IX complaint include, but are not limited to:

- Making sexual propositions or pressuring for sexual favors;
- Touching of a sexual nature;
- Writing graffiti of a sexual nature;

- Displaying or distributing sexually explicit drawings, pictures, videos, or other materials;
- Performing sexual gestures or touching oneself sexually in front of others;
- Spreading sexual rumors or rating other students or employees as to sexual activity or performance;
- Circulating or showing e-mails or websites of a sexual nature;
- Direct or implied threats that submission to sexual advances is a condition of employment, promotion, good grades, recommendations, etc.;
- Sexually explicit jokes or statements, questions, or remarks about sexual activity or experience;
- Physical assault of a sexual nature.

E. Sexual Assault – Non Title IX

Sexual Assault – Non Title IX is defined as conduct that meets the definition of one of the types of Sexual Assault under Section III(C), but that does not meet the threshold requirements under "Sexual Harassment – Title IX," above.

For the definition of "consent" and related definitions, see Section IV (Related Definitions), below.

F. Dating Violence – Non Title IX

Dating Violence – Non Title IX is defined as conduct that meets the definition of Dating Violence under Section III(C), but that does not meet the threshold requirements under "Sexual Harassment – Title IX," above.

G. Domestic Violence – Non Title IX

Domestic Violence – Non Title IX is defined as conduct that meets the definition of Domestic Violence under Section III(C), but that does not meet the threshold requirements under "Sexual Harassment – Title IX," above.

Domestic Violence – Non Title IX is also defined as conduct that would meet the definition of Domestic Violence under Section III(C), except that it is not on the basis of sex, regardless of whether it meets the threshold requirements under "Sexual Harassment – Title IX," above.

H. Stalking – Non Title IX

Stalking – Non Title IX is defined as conduct that meets the definition of Stalking under Section III(C), but that does not meet the threshold requirements under "Sexual Harassment – Title IX," above.

Stalking – Non Title IX is also defined as conduct that would meet the definition of Stalking under Section III(C), except that it is not on the basis of sex, regardless of whether it meets the threshold requirements under "Sexual Harassment – Title IX," above.

I. Sexual Exploitation – Non Title IX

Sexual Exploitation is taking advantage of another's sexuality in a non-consensual manner. Examples of Sexual Exploitation include, but are not limited to:

- The non-consensual viewing of nudity of another;
- The non-consensual streaming of images of sexual activity;
- The non-consensual sharing or posting of nude images of another;
- The non-consensual recording of individuals in locations in which they have a reasonable expectation of privacy (such as restrooms or locker rooms) even if the images do not capture nudity;
- Intentionally exposing one's genitals to another person in non-consensual circumstances;
- Knowingly exposing another to a sexually transmitted disease under circumstances that could reasonably lead to transmission of the disease; and
- Inducing incapacitation of another via drugs and/or alcohol for purposes of making that person vulnerable to non-consensual sexual conduct or non-consensual sexual contact.

J. Retaliation

Retaliation means to intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy or Title IX regulations.

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

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

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

IV. Related Definitions

A. Consent

Consent is a knowing, voluntary, and affirmatively communicated willingness to participate in a particular sexual activity or behavior. It must be given by a person who has the ability and

capacity to exercise free will and make a rational, reasonable judgment. Consent may be expressed either by words or actions, as long as those words or actions create a mutually understandable permission regarding the conditions of sexual activity. It is the responsibility of the person who initiates the sexual activity to ensure that consent is obtained from the other person or persons involved in the sexual activity before the activity occurs. If consent of one participant is unclear at any time, it is the responsibility of the other participant(s) to ensure that consent is present before beginning or continuing the activity.

Additional considerations include:

- Lack of protest or resistance is not consent. Nor may silence or inaction, in and of itself, be interpreted as consent.
- Previously consensual sexual activity does not imply consent to future sexual activity.
- Consent must be obtained for every sexual activity. Consent to one form of sexual activity does not constitute consent to all forms of sexual activity.
- To give consent, one must be of legal age. Under Ohio law, individuals under the age of 13 cannot give consent. Individuals at least 13 years of age but under the age of 16 cannot give consent to individuals that are 18 or older.
- Consent must be present throughout sexual activity and may be withdrawn at any time. If there is confusion as to whether there is consent or whether prior consent has been withdrawn, it is essential that the participants stop the activity until consent is reestablished.
- Consent cannot be obtained by the use of physical force, threats of physical force, physically intimidating behavior, or coercion.
- Consent cannot be given by an individual that is incapacitated.

B. Coercion

Coercion is unreasonable pressure for sexual activity that significantly compromises the voluntary nature of an individual's participation. Examples of coercion include but are not limited to threatening to harm oneself if the other person does not engage in sexual activity, or threatening to blackmail an individual if they do not engage in sexual activity.

C. Incapacitation

Incapacitation is a state in which an individual's decision-making ability is impaired to the point that the individual is unable to understand the nature or consequences of their actions. Incapacitation may result from:

- Sleep or unconsciousness
- Temporary or permanent mental or physical disability
- The influence of alcohol, drugs, medication, or a combination of any of these substances.

Incapacitation is more than mere intoxication. An individual is incapacitated if they cannot understand the "who, what, where, when, and how" of the sexual activity.

In circumstances involving an incapacitated Complainant who otherwise appears to have consented, the Respondent will not be held responsible for not obtaining consent unless the Respondent knew or reasonably should have known that the Complainant was incapacitated. The relevant standard is whether a sober, reasonable person in the same position should have known that the Complainant was incapacitated. For purposes of an incapacitation analysis, it is irrelevant whether the Respondent was incapacitated.

V. How To Address Prohibited Conduct: Options and Resources

If you or someone you know has experienced Prohibited Conduct, the first concerns to be addressed should be to make sure the individual is safe and has access to medical care if needed. The Marietta College Police Department (740-376-3333) can provide a safety transport and assist in obtaining emergency medical assistance. Emergency assistance can also be accessed by dialing 911.

Once the individual is safe, there are three primary considerations that should be addressed:

1. The individual should consider whether they want to access resources, either on campus or off campus, to get assistance. Emergency medical assistance can be reached by dialing 911 or contacting Campus Police at (740) 376-3333.
2. Evidence should be preserved so that it is available if needed for purposes of a College investigation and/or a criminal investigation.
3. The individual should consider whether to make a report to the College, to law enforcement, both, or neither. Note that employees of the College, unless they have been designated as "Confidential Resources" according to this Policy, are required to report all Prohibited Conduct to the Title IX Coordinator or a Deputy Title IX Coordinator as soon as possible after learning of the incident.

A. Resources To Assist

Individuals who experience Prohibited Conduct may wish to access resources to assist with their personal needs following an incident. There are two primary types of resources: confidential resources and other resources which are not confidential.

1. Confidential Resources

Confidential Resources are not obligated to report Prohibited Conduct to the College. They are also not required to report potential criminal behavior to law enforcement except in certain very limited situations required by the Ohio Revised Code. Confidential Resources include:

<u>On-Campus Confidential Resources</u>

- Dr. J. Michael Harding Center for Health and Wellness, 1st Floor, Harrison Hall, 7th Street Entrance, (740) 376-4477, healthandwellness@marietta.edu

- Members of the mental health counseling staff provide students with professional, confidential counseling, advocacy, guidance, and assistance in understanding options, rights, and outcomes with regard to both the College and criminal processes.

  Ella Sillaman, Licensed Professional Counselor: ems008@marietta.edu
  Spencer Thorn, Licensed Professional Counselor: srt005@marietta.edu

- Members of the medical staff provide medical assistance, including sexual assault response assistance to students.

  Brittany Peppel, Physician Assistant: blg003@marietta.edu
  Kimberly Gandy, Registered Nurse: kdg001@marietta.edu
  Stacey Fairbanks, Registered Nurse: smf008@marietta.edu

Off-Campus Confidential Resources

- Marietta Memorial Hospital: Emergency Services, 401 Matthew Street, (740) 376-1939 and Selby General Hospital: Emergency Services, 1106 Colegate Drive, (740) 568-2000 – Offers on-site Sexual Assault Forensic Exam (SAFE) services through the Emergency Department.
- Local Crisis Hotline: (740) 373-8240
- EVE, Inc. (support services for survivors of relationship violence and/or sexual assault) 24-hour hotline: 1-800-974-3111
- Suicide Prevention: 1-800-273-8255
- Ohio Crisis Text Line: Text 4HOPE to 741741
- SAMHSA's National Helpline: 1-800-622-4357 – Confidential, free 24/7 treatment referral and information service for individuals and families facing mental and/or substance use disorders
- Trevor Project Lifeline/LGBTQ Hotline: 1-866-488-7386 / visit thetrevorproject.org
- Trans Hotline: 1-877-565-8860
- SAFE Line: 1-512-267-7233 / text 737-888-7233 – Confidential, free 24/7 support for victims of domestic violence, sexual assault, sex trafficking and child abuse.
- National Domestic Violence Hotline: 1-800-799-7233
- National Sexual Assault Hotline: 1-800-656-4673
- Depression Hotline: 1-888-273-5174
- Self-harm Hotline: 1-877-455-0628
- Get Local Help: call 211 / text your zip code to 898-211 – Confidential, free, 24/7 information service connecting you to local resources and assistance.

Note that there are limits to a Confidential Resource's ability to maintain confidentiality. Confidential Resources are required to report child abuse or neglect to Children's Services or local law enforcement. Medical professionals may also have certain legally mandated reporting

responsibilities in certain serious cases, although depending on state law, the reporting requirement may only require that the professional share the date, general time, and general location of the incident. Mental health professionals are required to disclose information where there is an imminent threat of harm to self or others. Finally, pursuant to the Clery Act, anonymous statistical information for certain offenses that have been reported as occurring at campus locations must be shared with Campus Police. The information does not include the names or any other identifying information about the persons involved in such incidents.

In some cases, an individual may not need services through a Confidential Resource immediately following the Prohibited Conduct. However, as time passes, it may be helpful to seek such assistance. Counselors found on campus at the Center for Health and Wellness, along with other service providers listed in this Policy, can provide assistance and/or treatment in dealing with physical and emotional concerns as they may arise.

2. Other Resources

Other resources may also provide helpful support in many ways, including assisting individuals with obtaining accommodations or interim protective measures, explaining their options, and connecting them with other appropriate resources. Friends and loved ones may also be important sources of emotional support.

College resources that are not Confidential Resources are expected to handle information in a manner that respects the privacy of those involved in the situation, sharing information only as necessary. However, all employees of the College who are not listed as confidential resources, above, are required to report allegations of Prohibited Conduct to the Title IX Coordinator or a Deputy Title IX Coordinator.

Note that under Ohio law, all individuals (except for those Confidential Resources listed above) have the obligation to report felonies to law enforcement. More information on involvement with law enforcement can be found below.

The primary non-confidential resource for all concerns regarding Prohibited Conduct is the Title IX Coordinator, Richard Danford, who can be reached in 103 Andrews Hall, or by calling (740) 376-4899, or by email at danfordr@marietta.edu. The secondary non-confidential resources on campus are the two Deputy Title IX Coordinators, whose names and contact information are provided below:

Amanda Copeland
Deputy Title IX Coordinator
Assistant Professor of Leadership Studies
103 McDonough Center for Leadership and Business
(740) 376-4642
am002@marietta.edu

Jenn Castle
Deputy Title IX Coordinator

Senior Woman Administrator and Head Coach – Softball
Dyson Baudo Recreation Center 203
(740) 376-4668
ja003@marietta.edu

In addition to providing information about this Policy, the Title IX Coordinator and the Deputy Title IX Coordinators can provide information on existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid issues, and other services available for individuals as appropriate, regardless of where the Prohibited Conduct occurred. The Title IX Coordinator and the Deputy Title IX Coordinators can also provide assistance in making changes to academic, working, transportation, and living situations; instituting a no-contact order; and instituting other protective measures as may be appropriate. Although the Title IX Coordinator and the Deputy Title IX Coordinators are obligated to report felonies to law enforcement, it is not required that an individual disclose the nature of the Prohibited Conduct to the Title IX Coordinator or a Deputy Title IX Coordinator in order to discuss resources that may be available.

In addition to the Title IX Coordinator and the Deputy Title IX Coordinators, other non-confidential resources include:

- Office of Student Connections and Outreach, 105 Andrews Hall, (740) 376-3287;
- Office of Student Life, 104 Andrews Hall, (740) 376-4736;
- Athletics Director, Dyson Baudo Recreation Center, (740) 376-4949;
- Office of Human Resources, Irvine Administration Building, (740) 376-4835;
- Office of Education Abroad, Thomas 214, (740) 376-4708;
- Any Marietta College employee (aside from those designated as confidential resources, above);
- Marietta College Police Department, next to The Gathering Place, 7th and Butler Streets, (740) 376-3333;
- Marietta City Police Department, 301 Putnam Street or (740) 373-4141;
- Washington County Sheriff's Department, 309 4th Street, (740) 376-7070;
- Washington County Prosecutor's Office, 205 Putnam Street, (740) 373-7624;
- Washington County Domestic Relations Court, 205 Putnam Street, (740) 373-6623;
- Washington County Clerk of Court's Office, 205 Putnam Street, (740) 373-6623 – Can provide forms for filing a Civil Protective Order;
- Washington County Law Library, 205 Putnam Street, (740) 373-6623 – Can provide names of local attorneys and their specific practice areas.

B. Preserving Evidence

If an incident of Prohibited Conduct occurs, it is important to preserve evidence so that if the individual later chooses to file a Title IX complaint, to pursue criminal charges, or both, the evidence is able to be used for purposes of the investigation.

1. Sexual Assault Forensic Exams (SAFE)

Individuals who have experienced sexual assault may choose to seek a medical evaluation by a forensic nurse examiner to collect and preserve evidence. A forensic nurse examiner (FNE) or a Sexual assault nurse examiner (SANE) are specially trained professionals who will provide medical care, document the details of the assault, and collect evidence. The nurse can provide prophylactic treatment for sexually transmitted infections and pregnancy prevention. HIV prophylaxis screening and medication will also be discussed and provided. The individual can have a friend, family member, or crisis counselor present during all or parts of the examination. A community advocate may also be present to assist the individual during or after medical care is complete.

Evidence collection may occur up to 96 hours after the assault and occurs only with the consent of the victim. The evaluation includes immediate care of any injuries, a medical history, a head to toe examination, evidence collection, forensic photography, and treatment. The individual may opt out of any part of this evaluation at their own discretion. These evaluations can be obtained through the Marietta Memorial Hospital SANE Program, and they are free regardless of whether the individual chooses to pursue criminal charges. The SANE Program in the Marietta Memorial Health System is operated through their Emergency Departments. More information on Memorial's Emergency Departments can be found at:

https://www.mhsystem.org/services/emergency-care/

If possible, to prepare for such an evaluation, the individual should not shower, change clothes, bathe, douche, or brush their teeth until the evidence has been collected. Clothing worn during the assault may be collected as evidence; undergarments will be collected as part of the forensic medical examination. New undergarments and clothing are available to victims at on-campus and off-campus service providers free of charge.

It is highly recommended that individuals have a follow-up visit with a healthcare provider within two weeks of the assault. At this visit, the individual will receive follow-up testing, receive treatment if needed, and discuss the recovery process. Additional visits, if necessary, may be recommended by the healthcare provider.

2. Other Evidence Collection

Other physical evidence, such as bedsheets or condom wrappers, may also be important to preserve in case the individual wishes to pursue an investigation. The Title IX Coordinator or a Deputy Title IX Coordinator can facilitate the collection of this evidence through Campus Police.

Individuals are encouraged to preserve all potentially relevant text messages, emails, voicemails, photographs, videos, social media posts, private messages, letters, and other forms of communication. Assistance with preserving this information can be obtained through the Title IX Coordinator, Campus Police, or Information Technology Services.

C. Reporting to the Title IX Coordinator and Accessing Supportive Measures

The College encourages all individuals who may have experienced Prohibited Conduct to report the incident(s) to the College. In addition, the College encourages individuals who may have experienced potentially criminal behavior to report the incident(s) to local law enforcement. However, an individual may choose whether to make a report to the College, to law enforcement, both (at the same time or one after the other), or neither. Filing a report does not require the filing of a formal complaint and undergoing an informal or formal resolution process. However, filing a report does assist the Title IX Coordinator in determining whether an individual may be eligible for supportive measures as described more fully below.

The College is deemed to have actual knowledge of allegations of sexual harassment when notice of such allegations is provided to the Title IX Coordinator or any College official who has authority to institute corrective measures on behalf of the College. These officials are the Vice President for Student Life, the Vice President of Academic Affairs, the Athletic Director and the Director of Human Resources.

To facilitate the College being able to respond promptly to allegations of sexual harassment, all employees of the College, except for those confidential resources listed in Section V(A)1, are required to report allegations of Prohibited Conduct to the Title IX Coordinator or one of the Deputy Title IX Coordinators as soon as practicable after learning of the allegations. Upon receiving a mandatory report, the Title IX Coordinator or Deputy Title IX Coordinator will reach out to the potential Complainant to ask if they would like to meet to discuss supportive measures and other options. Failure to make a mandatory report may result in discipline, up to and including termination of employment.

The College encourages any member of the campus community to report Prohibited Conduct. To encourage such reporting and the honesty of those participating in the process, the College provides disciplinary amnesty for drug and alcohol violations to students who report an incident (as a Complainant or a witness) or otherwise participate in the College's process in good faith. However, amnesty will not be provided to individuals for behavior that causes harm to another person or for the participation in or facilitation of violations of this Policy.

The College will cooperate with investigations by law enforcement and may, at the request of law enforcement, briefly delay any concurrent investigation by the College. However, the College uses this and other policies to determine what constitutes misconduct, rather than Ohio criminal laws, and therefore does not defer to law enforcement's findings in lieu of administering this Policy.

1. Title IX Coordinator

All individuals are encouraged to report Prohibited Conduct to the Title IX Coordinator or one of the Deputy Title IX Coordinators, and all College employees (except confidential resources) are required to report Prohibited Conduct to the Title IX Coordinator. Such reports may be made to the Title IX Coordinator & Vice President for Student Life via email at danfordr@marietta.edu, or by telephone at (740) 376-4899, or in person at 103 Andrews Hall. More information about

reporting to the Title IX Coordinator can be found below. Reports can also be made to one of the Deputy Title IX Coordinators using the information provided immediately below:

Amanda Copeland
Deputy Title IX Coordinator
Assistant Professor of Leadership Studies
103 McDonough Center for Leadership and Business
(740) 376-4642
am002@marietta.edu

Jenn Castle
Deputy Title IX Coordinator
Senior Woman Administrator and Head Coach – Softball
Dyson Baudo Recreation Center 203
(740) 376-4668
ja003@marietta.edu

Additionally, reports can be submitted online using the following link:

https://cm.maxient.com/reportingform.php?MariettaCollege=&layout_id=2

2. Law Enforcement

All individuals are encouraged to report criminal conduct to Campus Police at (740) 376-3333. Campus Police can connect individuals to the appropriate local law enforcement agency to file a police report, and can assist with securing the scene, providing safety transports, and preserving evidence if needed. Reporting to law enforcement does not require an individual to pursue criminal charges.

Anonymous reporting of crimes is available through Campus Police's Crime/Complaint reporting form online at https://www.marietta.edu/report-crime-complaint. Note that providing information anonymously may impede the College's ability to respond to and investigate the reported incident(s).

VI. Supportive Measures

"Supportive measures" are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter sexual harassment.

"Supportive measures" may include, but are not limited to:

- Providing access to counseling services and assistance in setting up an initial appointment;
- Issuing and enforcing No Contact Directives, which are usually mutual unless and until a finding of responsibility for a policy violation has been made;
- Providing alternative on-campus housing;
- Assisting with relocation of housing or workspace;
- Providing an escort to ensure safe movement between classes and activities;
- Making changes to behavior, movement on campus, access to buildings or spaces, and/or participation in campus activities;
- Modifying academic and extracurricular activities, transportation, and dining arrangements;
- Extending deadlines and assisting with other course-related adjustments;
- Modifying work or class schedules;
- Assisting with obtaining a leave of absence and/or withdrawal from the College;
- Providing alternative course completion options;
- Providing academic support services;
- Assisting in obtaining visa or immigration information;
- Modifying transportation, parking, dining and working situations;
- Implementing access restriction or interim suspension of an individual while a matter is investigated and resolved;
- Imposing other protections or behavioral restrictions as necessary and appropriate.

The College offers supportive measures to both Complainants and Respondents. Upon receipt of a report of an identifiable Complainant, the Title IX Coordinator will promptly contact the Complainant to discuss the availability of supportive measures, consider the Complainant's wishes with respect to supportive measures, and inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the Complainant the process for filing a formal complaint if one is desired.

Upon giving notice to a Respondent of a formal complaint raising potential Prohibited Conduct violations against the Respondent, the Title IX Coordinator or a Deputy Title IX Coordinator will notify the Respondent of the availability of counseling and may notify the Respondent of the availability of other supportive measures, as the Title IX Coordinator or Deputy Title IX Coordinator deems appropriate.

Throughout any grievance process, the Title IX Coordinator or Deputy Title IX Coordinator will continually reassess and discuss appropriate supportive measures with the parties as the Title IX Coordinator or Deputy Title IX Coordinator deems appropriate. If the Title IX Coordinator or Deputy Title IX Coordinator does not offer supportive measures to the Complainant, the Title IX Coordinator or Deputy Title IX Coordinator must document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

The College will maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of

the College to provide the supportive measures. The Title IX Coordinator or Deputy Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

VII. The College's Grievance Process for Resolving Complaints of Prohibited Conduct

If Prohibited Conduct is reported to the College through a non-confidential resource, the Title IX Coordinator will attempt to contact the potential Complainant to review this Policy and discuss the privacy of the process, amnesty (if appropriate), accommodations, supportive measures, options for informal resolution (if appropriate), and the investigation and adjudication process for formal complaints.

For purposes of the College's process, the subject of the Prohibited Conduct is referred to as the Complainant, and the alleged perpetrator of the Prohibited Conduct is referred to as the Respondent. The Complainant may or may not be the reporter of the Prohibited Conduct. Both the Complainant and the Respondent are referred to as the parties for purposes of this process. In certain circumstances, the College may serve as the Complainant in a formal complaint.

There is a presumption that a Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.

Each party has the right to bring an advisor of their choosing to any meetings or discussions relating to the formal resolution process. The advisor may advise the party directly and provide support to the party, but may not speak for the party or disrupt the meetings or proceedings. Advisors play a more active role if and when a case is submitted to a Hearing Panel, as detailed further below.

Under this process, any of the Title IX Coordinator's duties may be performed by and discretion may be exercised by a designee.

A. Privacy of the Process

The College recognizes that Prohibited Conduct is a sensitive subject for all individuals involved in the underlying incident(s) as well as the process to resolve such incidents. The College is committed to maintaining the privacy of the parties involved to the fullest extent possible, and information regarding Prohibited Conduct is maintained in a secure manner and is only shared with individuals who have a need to know. Student education records are protected in compliance with the Family Educational Rights and Privacy Act (FERPA). Medical records are protected by similar state and federal laws. Access to employee personnel records is restricted in accordance with College policies and state and federal law.

Complainants sometimes ask that their name not be disclosed to the Respondent or that no investigation or disciplinary action be pursued to address the Prohibited Conduct. In such situations, honoring the request may limit the College's ability to respond fully to the incident, including investigating and pursuing disciplinary action against the Respondent as appropriate. Complainants worried about such disclosure should remember that the College strongly prohibits

retaliation against those reporting Prohibited Conduct and that it will work with the Complainant to take steps to prevent retaliation.

Although the College tries to honor such requests, there are situations in which the College must override such requests for confidentiality in order to meet its obligations under Title IX to provide a safe and nondiscriminatory environment. To determine whether it is necessary to pursue action despite a Complainant's request for anonymity or no action, the College will consider relevant factors such as the following: whether there are circumstances that suggest there is an increased risk of the Respondent committing additional acts of sexual violence or other violence; whether there have been other sexual violence complaints about the same Respondent; whether the Respondent has a history of arrests or records from a prior institution indicating a history of violence; whether the Respondent threatened further sexual violence or other violence against others; whether the sexual violence was committed by multiple Respondents; whether there are circumstances that suggest there is an increased risk of future acts of sexual violence under similar circumstances such as where a report reveals a pattern of perpetration; whether sexual violence was perpetrated with a weapon; the age of the Complainant subjected to the sexual violence; and whether the College possesses other means to obtain relevant evidence.

If the College determines that it must disclose a Complainant's identity to a Respondent despite a request for confidentiality, it will strive to inform the reporter prior to making this disclosure and consider whether any supportive measures are necessary to protect the Complainant. The College will also inform the Respondent that it was the College's decision, and not the Complainant's, to address the report.

Making an initial request for anonymity or no discipline does not preclude a Complainant from choosing to proceed with the process at a later date.

If a report discloses an immediate threat to the campus community, the College may issue a Timely Warning of the conduct in the interest of the safety and well-being of the campus community. This warning will not contain personally identifying information about the Complainant.

B. Filing a Formal Complaint

A formal complaint is defined as a written document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the College investigate the allegation of sexual harassment. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator. Additionally, a "document filed by a Complainant" can be in the form of an electronic submission (such as by electronic mail or through an online portal provided for this purpose by the College) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the formal complaint. In situations where the Title IX Coordinator initiates or signs a formal complaint, the Title IX Coordinator is not a Complainant and must comply with the guidelines outlined in this section.

The College may consolidate formal complaints as to allegations of sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. The same facts and circumstances mean that the multiple Complainants' allegations are so intertwined that their allegations directly relate to all parties.

C. Initial Assessment

Upon receiving a formal complaint, the Title IX Coordinator may conduct an initial assessment to evaluate whether the complaint alleges sufficient information to suggest that Prohibited Conduct may have occurred. This determination may be based on information submitted by the Complainant, as well as information gathered by the Title IX Coordinator during a preliminary investigation.

As part of the initial assessment, the Title IX Coordinator will determine what Prohibited Conduct is properly alleged, whether informal resolution would be appropriate in the case given the allegations, and whether any of the allegations constitute "Sexual Harassment – Title IX" under this Policy.

If the Title IX Coordinator determines that there is insufficient information to suggest that Prohibited Conduct may have occurred, they will notify the Complainant. The Complainant may submit additional information if desired. The process cannot move forward unless and until the Title IX Coordinator receives information sufficient to suggest that Prohibited Conduct may have occurred.

In cases where a Respondent is unable to be identified after the initial assessment, the process will be suspended unless and until there is sufficient information to charge a Respondent.

D. Notice to the Parties

If the Title IX Coordinator determines that the formal complaint alleges sufficient information to suggest that Prohibited Conduct may have occurred, they will provide written notice to all parties of the charges that will be investigated. The charges may include violations of other College policies where such charges are related to the Prohibited Conduct under investigation. In such cases, these policy violations will be addressed pursuant to this Policy and not any other disciplinary process, such as the student conduct process.

The written notice shall include:

- Notice of this Policy;
- Allegations of Prohibited Conduct and any other violations of College policy that will be considered in the same case, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview;

- The College's position that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- The right of each party to have an advisor of their choice, who may be an attorney;
- The right of each party to inspect and review evidence;
- The College's prohibition on knowingly making false statements or knowingly submitting false information during the grievance process;
- The date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings currently scheduled, with sufficient time for the party to prepare to participate;
- The right to suggest witnesses and provide statements and evidence;
- A reminder of the prohibition against retaliation;
- A reminder that each party is eligible to request supportive measures through the Title IX Coordinator;
- The identity of the investigators and a short timeline to object due to any concerns about bias or conflict;
- Whether informal resolution is an option in this case and, if so, how to indicate an interest in informal resolution.

If additional allegations are determined to be appropriate to add to the investigation at a later time, the Title IX Coordinator shall provide notice of such allegations in writing to all parties.

E. Emergency Removal

Upon receipt of a formal complaint, the Title IX Coordinator shall conduct an individualized safety and risk assessment to determine whether the Respondent's presence in the College's education programs and activities poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment. If so, the Title IX Coordinator will determine whether such risk assessment justifies the removal of the Respondent from campus on an emergency basis pending the outcome of the investigation. Threats must pose more than a generalized, hypothetical, or speculative risk to health and safety for emergency removal to be appropriate.

A removed Respondent will receive written notice from the Title IX Coordinator of the emergency removal and will be provided with an opportunity to appeal the decision within writing to the designated Appeal Officer within two (2) calendar days of the removal. The Appeal Officer's decision must be rendered within two (2) calendar days of receiving the appeal. The decision-makers for this appeal will not be otherwise assigned to this case as an investigator, a member of the Hearing Panel, the Title IX Coordinator, or a member of the Appeals Panel.

The Title IX Coordinator, at their discretion, will designate the Appeal Officer.

Non-student employees may be placed on administrative leave during the grievance process without receiving any appeal of such administrative leave.

F. Informal Resolution

The College does not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, the waiver of the right to an investigation and adjudication of formal complaints of sexual harassment under the College's grievance process. Similarly, the College will never require the parties in a sexual harassment allegation to participate in an informal resolution process, as described below.

After the initiation of a formal complaint of sexual harassment, if all parties voluntarily consent in writing, the College will assist the parties in an informal resolution process. An informal resolution process is available at any time prior to reaching a determination regarding responsibility in the grievance process, except in the cases of reports of sexual harassment of a student by a College employee.

Before initiating an informal process, the College will: (1) provide the parties a written notice that an informal resolution process is available to them; and (2) obtain the parties' voluntary, written consent to the informal resolution process. The written notice to the parties will disclose the allegations, the requirements of the informal resolution process (described below), and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

The College's informal process enables that, at any time prior to agreeing to a resolution, any party has a right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

When sexual harassment allegations can be resolved through informal resolution by mutual consent of the parties and on a basis that is acceptable to the Title IX Coordinator, the resolution process shall be considered finally decided and there will be no subsequent process or appeal.

G. Formal Resolution

Complainants may choose to pursue a formal resolution, or as discussed above, the College may choose to move forward with the formal resolution process. The formal resolution process has three phases: investigation, live hearing with cross-examination, and appeal.

The College will attempt to complete most investigations within sixty (60) days to one hundred and twenty (120) days. The timeframe for formal investigations will begin upon filing of a complaint and will conclude upon submittal for hearing. Investigations may be delayed and timeframes for investigations may be extended for good cause and with written notice provided by the Title IX Coordinator to Complainants and Respondents including the reason for the delay or extension. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

The College will attempt to accommodate the schedules of parties and witnesses, however, grievance resolution must be completed in a reasonably prompt timeframe, and must proceed to conclusion even in the absence of a party or witness.

Any individual acting as a Title IX Coordinator, investigator, decision-maker, or any person designated by a College to facilitate an informal resolution process must not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. The following will not be considered evidence of bias:

- The Title IX Coordinator's initiation of a formal complaint, or;
- An individual's decision that allegations warrant an investigation.

The College will apply an objective (whether a reasonable person would believe bias exists), common sense approach to evaluating whether a particular person serving in a Title IX role is biased, and will exercise caution not to apply generalizations that might unreasonably conclude that bias exists. An individual's current job title, professional qualifications, past experience, identity, or sex will not alone indicate bias.

Use of trauma-informed practices will not be considered evidence of bias when such practices do not:

- Rely on sex stereotypes;
- Apply generalizations to allegations in specific cases;
- Cause loss of impartiality, and;
- Prejudge the facts at issue.

1. Investigation

The College conducts a prompt, impartial, adequate, reliable, and thorough investigation of charges regarding Prohibited Conduct. Investigations will be carried out by a trained investigator who does not have a conflict of interest or bias for or against either party. The investigator is assigned by the Title IX Coordinator and is required to keep information obtained in the investigation private except to the extent necessary to conduct the investigation or to protect the health or safety of the parties or others. In cases involving a large number of witnesses or other complex situations, additional trained, impartial investigators may be used to support the investigator. The Title IX Coordinator reserves the right to assign external investigators who are not employed by the College but otherwise meet the training requirements. The external investigators will not have a conflict of interest or bias for or against either party.

Investigators are charged with conducting interviews of the parties and relevant witnesses who may have information relevant to the investigation (as determined by the investigators), reviewing relevant College records, gathering other relevant information, and keeping the Title IX Coordinator updated on the progress of the investigation. Both parties will be provided the opportunity to suggest witnesses and present information to the investigators. Neither party is required to participate in the investigation, but failure to participate may deprive the investigators of potentially helpful information.

During the course of the investigation, the investigator(s) may propose additional charges for the investigation as they deem appropriate. Both parties must be provided with written notice and an opportunity to respond to such additional charges.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the College and not on the parties.

The College will not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the College obtains that party's voluntary, written consent.

The College will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence.

The College will not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence. A party's communication with a witness or potential witness is considered part of a party's right to meaningfully participate in furthering the party's interests in the case, and not an "interference" with the investigation. However, where a party's conduct toward a witness might constitute "tampering" (for instance, by attempting to alter or prevent a witness's testimony), such conduct also is prohibited as retaliation.

The parties will have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source. The College will not consider or provide for inspection and review evidence which the College knows was illegally or unlawfully created or obtained. The College may impose on the parties and party advisors restrictions or require a non-disclosure agreement not to disseminate any of the evidence subject to inspection and review.

When the investigator(s) believe they are ready to prepare the Investigative Report, the Title IX Coordinator will send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties will have ten (10) calendar days to submit a written response.

The investigator(s) will review the parties' written responses, conduct any follow-up investigation they deem appropriate, and prepare an investigative report, known as the Investigative Report, that summarizes relevant evidence. The Investigative Report will not include a summary of evidence not considered to be relevant. If the complaint involves multiple Complainants, multiple Respondents, or both, the College may issue a single investigative report. The Investigative Report will include an assessment as to whether the conduct, if proven, would constitute "Sexual Harassment – Title IX" as defined within this Policy. The Title IX Coordinator will review the assessment and shall notify the parties within two (2) calendar days

of receiving the Investigative Report whether the Title IX Coordinator concurs with the assessment of the investigators. If the Title IX Coordinator determines that none of the conduct, if proven, would constitute "Sexual Harassment – Title IX," the case shall proceed to an Investigative Resolution pursuant to Section VII(G)3. If the Title IX Coordinator determines that at least some of the conduct, if proven, would constitute "Sexual Harassment – Title IX," the case shall proceed to a Hearing pursuant to Section VII(G)2."

Discretionary Dismissal may be exercised by the Title IX Coordinator to dismiss a formal complaint or allegations therein if:

- A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein;
- The Respondent is no longer enrolled or employed by the College, or;
- Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

The Title IX Coordinator's decision regarding dismissal may be appealed in writing to a trained, unbiased, impartial Appeal Officer designated by the Title IX Coordinator within one (1) business day of receipt of the decision. The Appeal Officer's decision regarding dismissal is final. The decision-maker for this appeal will not be otherwise assigned to this case as an investigator, a member of the Hearing Panel, the Title IX Coordinator, or a member of the Appeals Panel.

Each party and their advisor shall receive a copy of the Investigative Report for their review and written response, at least ten (10) calendar days prior to a hearing or other time of determination regarding responsibility. If a party disagrees with an investigator's determination about relevance, the party may argue relevance in their written response.

2. Hearing

Upon conclusion of the investigation, where it is determined that there are allegations of "Sexual Harassment– Title IX," the College will conduct a live hearing.

The Title IX Coordinator will appoint a three-person Panel to serve as decision-makers during the hearing, with an additional non-voting panel member being appointed as the Chair to oversee the hearing. The Panel will be comprised of faculty and/or staff members from the College's Title IX Pool, and may include external parties if so designated by the Title IX Coordinator. The list of Pool members and a description of the Pool can be found at on the Title IX page of the College's website (https://www.marietta.edu/title-ix). The Panel will not include the Title IX Coordinator, the investigators who investigated the allegations, or the informal resolution officer. The Panel is under an obligation to objectively evaluate all relevant evidence both inculpatory and exculpatory. The Panel has the right to ask questions and elicit information from parties and witnesses on the Panel's own initiative.

At least five (5) calendar days prior to the hearing, a pre-hearing conference will be held with each party, the party's advisor, the Title IX Coordinator, and the Chair. At the pre-hearing

conference, the party and advisor must disclose the witnesses that will be requested and the evidence that will be submitted for consideration. Evidence and witnesses may only be considered at hearing if they were submitted to the investigators, unless they were previously unknown or unavailable to the party during the investigation. The Chair will address any requests for new evidence and new witnesses at the pre-hearing conference. The Chair will also discuss guidelines for appropriate behavior and decorum during the hearing. The party and advisor are encouraged to ask questions.

Hearings will be conducted with all parties physically present in the same geographic location or, at the College's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other.

The College will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.

At the live hearing, the Panel will permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Chair will first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

The Chair makes relevancy determinations. The Chair is not required to give a lengthy or complicated explanation of a relevancy determination during the hearing, and may send to the parties after the hearing any revisions to the Chair's explanation that was provided during the hearing.

Cross-examination at the live hearing will be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally. All questioning will be relevant, respectful, and non-abusive. No party will be "yelled" at or asked questions in an abusive or intimidating manner.

If a party or witness does not submit to cross-examination at the live hearing, the Panel will weigh any relevant statements of the party or witness appropriately in reaching a determination of responsibility. The Panel will not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Parties will have equal opportunities to have others present during the hearing, including the opportunity to be accompanied by the advisor of their choice, who may be, but is not required to be, an attorney. The College will not limit the choice or presence of an advisor for Complainant or Respondent in any meeting or grievance proceeding. Advisors are required to abide by College restrictions regarding the extent to which they may participate in proceedings, and any restrictions will apply equally to both parties. If a party's advisor refuses to comply with restrictions set by the College, the College may require the party to use a different advisor.

If a party does not have an advisor present at the live hearing, the College will provide without fee or charge to that party, a trained advisor of the College's choice to conduct cross-examination on behalf of that party.

Relevancy determinations will be made pursuant to Section VII(G)4. Credibility will be considered pursuant to Section VII(G)5. Decisions will be prepared pursuant to Section VII(G)6. Sanctions, if any, will be determined pursuant to Section VII(G)7. Additional remedies, if any, will be determined pursuant to Section VII(G)8.

3. Investigative Resolution

Upon conclusion of the investigation, where it is determined that there are no allegations of "Sexual Harassment – Title IX," an investigative team will decide whether any policy violations have occurred. The investigative team will consist of the investigator who investigated the case, as well as a second trained, unbiased investigator.

The investigative team shall act as the decision-makers and will review the responses to the Investigative Report and revise it as appropriate.

Relevancy determinations will be made pursuant to Section VII(G)4. Credibility will be considered pursuant to Section VII(G)5. Decisions will be prepared pursuant to Section VII(G)6. Sanctions, if any, will be determined pursuant to Section VII(G)7. Additional remedies, if any, will be determined pursuant to Section VII(G)8.

4. Relevancy

Relevant evidence is evidence that tends to make a fact that is important to the case either more probable or less probable. Relevant questions are those questions that are designed to elicit relevant evidence.

The following may be considered irrelevant:

- Repetitive or duplicative questions or evidence;
- Information that is protected by a legally recognized privilege, such as attorney-client privilege;
- Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless:
    - Such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant; or
    - The questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent;
- Any party's medical, psychological, and similar records, unless the party has given voluntary, written consent for their use in the process.

The College will not exclude relevant evidence because such relevant evidence may be unduly prejudicial, concern prior bad acts (unless excluded above), or constitute character evidence. However, the decision-makers may objectively evaluate such evidence by analyzing whether that evidence warrants a high or low level of weight or credibility.

5. Credibility

Credibility is applied the same way for both a hearing panel and investigators.

The decision-makers will evaluate all admissible, relevant evidence for weight or credibility. The degree to which any inaccuracy, inconsistency, or implausibility in a narrative provided by a party or witness should affect a determination regarding responsibility is a matter to be decided by the decision-makers, after having the opportunity to ask questions of parties and witnesses, and to observe how parties and witnesses answer the questions posed by the other party. Corroborating evidence is not required.

Credibility determinations are not based solely on observing demeanor, but also are based on other factors (e.g., specific details, inherent plausibility, internal consistency, corroborative evidence).

A party's answers to questions can and should be evaluated by decision-makers in context, including taking into account that a party may experience stress while trying to answer questions Parties will not be unfairly judged due to inability to recount each specific detail of an incident in sequence, whether such inability is due to trauma, the effects of drugs or alcohol, or simple fallibility of human memory.

6. Decisions

The decision-makers will issue a written determination of responsibility using a "preponderance of the evidence" standard. A preponderance of the evidence means that it is more likely true than not that a policy violation occurred. The determination of responsibility will include:

- Identification of the allegations potentially constituting sexual harassment
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding the application of the Policy to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the Respondent (see Section VII(G)7), and whether remedies will be provided by the College to the Complainant (see Section VII(G)8), and;
- The College's procedures and permissible bases for the Complainant and Respondent to appeal (see Section VII(G)9).

The determination will lay out the evidentiary basis for conclusions reached in the case. The nature of remedies, if any, will not be included within the determination. The determination will be provided to the parties simultaneously. The determination becomes final only after the time period for appeal has expired or, if a party does file an appeal, after the appeal decision has been sent to the parties.

7. Sanctions

If any of the charges are substantiated, the written determination of responsibility will also include sanctions against the Respondent. All sanctions are determined fairly and impartially and on a case-by-case basis. In determining the sanctions, the decision-makers may consult with the Title IX Coordinator, the Director of Human Resources, the Vice President for Student Life, the President, or other College administrators or supervisors as they deem appropriate in the situation.

Sanctions may include, as appropriate:

- Educational training;
- Drug/alcohol assessment;
- Mandatory counseling;
- Community/campus service;
- Revocation of scholarships, honors, or awards;
- Housing reassignment/restrictions;
- Schedule changes or restrictions;
- Job/duty reassignment;
- No contact orders;
- No trespass orders;
- Suspension (for employees, this may be with or without pay);
- Behavioral restrictions;
- Restrictions on access to certain facilities or activities;
- For student organizations, revocation of recognition by the College, loss of funding, and/or loss of other privileges;
- Written warning;
- Disciplinary probation;
- Dismissal/termination.

The decision-maker's written determination of responsibility will go into effect immediately unless the Title IX Coordinator determines, in their discretion, that a temporary stay of sanctions is appropriate pending an appeal due to extraordinary circumstances. The Title IX Coordinator may add, remove, or change the supportive measures that apply after a decision is rendered.

8. Remedies

Where a determination of responsibility for Prohibited Conduct is made, the College will provide remedies to a Complainant designed to restore or preserve equal access to the College's

education program or activity. Such remedies may include the same individualized services provided as supportive measures; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent. The Title IX Coordinator is responsible for effective implementation of remedies.

Where the final determination has indicated that remedies will be provided, the Complainant can then communicate separately with the Title IX Coordinator or their designee to discuss what remedies are appropriately designed to preserve or restore the Complainant's equal access to education. Remedies for a Complainant which do not affect the Respondent must not be disclosed to the Respondent.

9. Appeals

Any party may appeal the decision-makers' determination regarding responsibility, or the College's dismissal of a formal complaint or any allegations therein. A party must submit a written appeal to the Title IX Coordinator within five (5) calendar days of receipt of the determination of responsibility. The College will notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties. Both parties will have a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome. The Title IX Coordinator will appoint a three-person Panel to serve as the decision-makers for purposes of the appeal, plus an additional non-voting Appeals Panel Chair to manage the appeal process. Members of the Appeals Panel will be trained, unbiased, and impartial. The Appeals Panel will be comprised of faculty and/or staff members from the Pool, and may include external parties if so designated by the Title IX Coordinator.

The Appeals Panel will issue a written decision describing the result of the appeal and the rationale for the result and provide the written decision simultaneously to both parties.

Members of the Appeals Panel will not be the same person(s) as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigators, or the Title IX Coordinator.

Grounds for appeal include:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- The Title IX Coordinator, investigators, or Panel members had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter;
- Evidence that the sanction received was grossly disproportionate to the conduct for which the party was found responsible; or
- Evidence that the decision of the investigative team was clearly erroneous based on the evidentiary record.

All grounds for appeal will be available to all parties.

If the appeal is not based on one of the above factors, the Title IX Coordinator may reject the appeal with written notice to the appealing party. The appealing party may then submit a revised written request for appeal within five (5) calendar days of the initial rejection notification. If the second request for appeal is rejected, no further appeal requests are permitted.

Upon receipt of the appeal letter, the Title IX Coordinator will forward the appeal letter, along with the written determination of responsibility, to the non-appealing party, who will be provided with five (5) calendar days within which to respond to the appeal in writing. No further reply will be permitted. The Title IX Coordinator will forward the appeal, the response, the Investigative Report, the written determination of responsibility, and any other relevant information to a trained and impartial Appeals Panel.

The Appeals Panel will be permitted to review all materials associated with the case and may ask questions of the Title IX Coordinator, investigator/s, and decision-makers. The Appeals Panel is not permitted to speak with parties, advisors, or other witnesses about the case. Within ten (10) calendar days of receiving the appeal from the Title IX Coordinator, the Appeals Panel may:

- Affirm the decision;
- Reverse the determination as to charge(s) and remove or add sanctions as appropriate;
- Affirm the determination as to charge(s) but revise the sanctions; or
- Request that additional steps to be taken.

The Appeals Panel will issue a written decision describing the result of the appeal and the rationale for the result and provide the written decision simultaneously to both parties. The decision of the Appeals Panel shall be final.

VIII. Record Retention

The College will retain all records of each investigation instituted under this Policy for seven (7) years. Records will include all documents, recordings, or transcripts from investigations, hearings, appeals, and informal resolutions. The first date of the first record created by the College will begin the seven-year retention period. Records will be maintained for all investigations including investigations that have been dismissed, completed, or otherwise resolved.

IX. Training

The Title IX Coordinator and their designee(s), investigators, decision-makers, appeal officers, and any person who facilitates an informal resolution process, will receive training on the definition of sexual harassment, the scope of the College's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. This includes how to apply the definitions with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with this Policy.

Investigators will receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

Decision-makers will receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant.

Any materials used to train Title IX Coordinators and their designee(s), investigators, decision-makers, appeal officers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

Training under this section is required on an as-needed basis. Training materials for training under this section will be made publicly available through the College's website and can be found here: https://www.marietta.edu/title-ix. Published training materials will be up-to-date and reflect the latest training provided.

The Title IX Coordinator and their designee(s), investigators, decision-makers, appeal officers and any person who facilitates an informal resolution process, will receive annual training on issues related to dating violence, domestic violence, sexual assault, and stalking and on how to conduct an investigation and hearing process that protects the safety of complainants and promotes accountability.

The Title IX Coordinator and/or the Deputy Title IX Coordinator will offer prevention/education training to the campus community on an annual basis. Trainings are grounded in theory and the resources available across campus and in the community. Content areas include training about this Policy, intimate partner violence, sexual violence prevention, sexual exploitation prevention, and bystander intervention.

X. Revision

This Policy supersedes any previous policy addressing gender-based harassment, discrimination, and misconduct. The College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect. Any materially significant changes to this Policy must be approved by Cabinet. During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer and College break schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional web site, with appropriate date of effect identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy. If government laws or regulations change, or court decisions alter, the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

This Policy and its associated procedures were formally adopted on August 13, 2024. It was revised on February 6, 2025, to reflect a change in the name of the College's president. It was revised again on September 14, 2026, to reflect a variety of personnel changes and to update live links embedded in the Policy document.