

## **SEXUAL DISCRIMINATION, SEXUAL HARASSMENT, AND SEXUAL VIOLENCE**

### **Title IX Compliance**

Title IX provides that no person in the United States, on the basis of gender, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance. The purpose of Title IX is to insure equal access and fairness for men and women with regards to athletics, employment, admissions, financial aid, publications, educational programs, and student rights.

Sexual discrimination interferes with an individual's employment or educational performance and has the purpose or effect of denying or limiting an individual's ability to participate in or benefit from the school's programs. Sexual discrimination includes sexual harassment, which also includes sexual violence.

The University does not discriminate on the basis of gender in its educational programs or activities. The University will not tolerate sexual discrimination, sexual harassment, or sexual violence on the part of any of its members.

In compliance with Title IX, the University has developed a comprehensive policy, which defines terms; defines the responsibilities of the Director of Title IX Compliance, Liaisons, and the Title IX Committee; establishes means of grievance resolution; provides sanctions for inappropriate behavior; establishes protocols; and references education, training, and awareness efforts.

### Definition of Terms

- *Sexual Discrimination*: Sexual discrimination is defined as inequitable treatment of individuals on the basis of gender.
- *Sexual Harassment*: Sexual harassment is defined as unwelcome conduct of a sexual nature. It includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment occurs where:
  - submission to such conduct is made either explicitly or implicitly a term or condition of employment or education (“quid pro quo”);
  - submission to or rejection of such conduct by an individual is used as the basis for employment or education decisions affecting the individual (“quid pro quo”); or
  - such conduct creates an intimidating, hostile, offensive, or demeaning employment or educational environment.
- *Sexual Violence*: Sexual violence is a form of sexual harassment prohibited by Title IX. It is defined as any physical sexual act perpetuated against a person’s will or where the person is incapable of giving consent due to that person’s use of drugs or alcohol. Sexual violence includes, but is not limited to, rape, sexual assault, sexual battery, and sexual coercion. (Additional information can be obtained from the Student Life Office.)

## Director of Title IX Compliance

The Director of Title IX Compliance shall coordinate University efforts to comply with and implement its responsibilities under Title IX. The Director reports to and is appointed by the Provost (in consultation with the President). The Director is:

Melanie Timmerman  
Mount Vernon Nazarene University, 800 Martinsburg Road Mount Vernon, OH 43050  
Phone 740-397-9000

### *Parameter of Responsibilities:*

- Oversee Title IX complaints.
- Identify and address any systematic problems that arise during the review of Title IX complaints.
- Be available to meet with students, as needed.
- Provide contact information to University members.
- Ensure that the University properly disseminates Title IX protocols and policies.
- Ensure that University education and training takes place.
- Chair the Title IX Committee.
- Ensure that grievance resolution procedures are implemented promptly and equitably.
- Serve on the Athletic Committee.

## Title IX Committee

The committee is comprised of the following individuals:

- Director of Institutional Research
- University Registrar
- Athletic Director
- Two faculty members, chosen at-large with alternating terms
- One staff representative
- One coach (chosen by the Vice President for Student Life)
- Vice President for Student Life
- Director of Human Resources
- Campus Safety Representative
- One female Resident Assistant
- One male Resident Assistant
- Director of Title IX Compliance (chair)

### *Parameter of Responsibilities*

- Review Title IX policies and procedures and make recommendations for improvement to the Senior Leadership Team.
- Conduct periodic self-evaluations of University programs, policies, and activities to determine compliance with Title IX requirements.

- When requested, assist with Title IX investigations.
- When necessary, serve on review panels.
- Assist the Director of Title IX Compliance, as needed.

### Title IX Liaison

Title IX Liaisons have been appointed, some by virtue of their responsibilities and others by virtue of their location, to assist University members that may have been subjected to sexual discrimination, sexual harassment, or sexual violence. Liaisons will provide complainants with advice on protocols/procedures and provide consultation on appropriate courses of action. Liaisons include the following:

- *Traditional* students: Director of Student Life, Director for Student Success, and, if needed, a qualified staff person chosen by the Vice President for Student Life.
- *GPS* students: Associate Vice President for Graduate and Professional Programs (“AVPGPP”), Assistant for Academic Administration (GPS), and if needed, a qualified staff person chosen by the AVPGPP.
- *Employees*: Associate Vice President for Academic Affairs (“AVPAA”), Director of Auxiliary Services, and, if needed, a qualified staff person chosen by the AVPAA.

### Grievance Resolution Procedures

Any person enrolled at or employed by the University who (1) believes that s/he has been a victim of sexual discrimination, sexual harassment, or sexual violence and (2) seeks University resolution, is obligated to follow the below process. (If the incident warrants investigation by law enforcement authorities, the Director of Title IX Compliance will initiate contact.)

**Note:** Strict adherence to time frames is required; otherwise, the complainant will be time-barred from pursuing his/her complaint. Under certain circumstances (e.g., holiday break, sickness or unavailability of one of the participants, etc.), the University may extend a particular deadline of its own volition or upon the reasonable request of the complainant.

**Step 1 – Consultation:** Complainants are to seek counsel and guidance early, before the alleged behavior escalates. Consultation will take place no more than 15 days after the incident. Complainants are to consult with a Liaison to gain perspective, seek direction, and, if necessary, discuss coping strategies. As these discussions are exploratory and definitional in focus, only a log is required. The Liaison will notify the Director of Title IX Compliance, who will keep the log. The log will contain the name of the complainant, the date of the consultation, and a brief description of the incident. *Consultation is a prerequisite to Step 2.*

**Step 2 – Informal Remediation:** If the complainant wishes to pursue the matter further, s/he will meet with the Director of Title IX Compliance no more than 15 days after the consultation (Step 1). (The complainant may request the assistance of a Liaison.) The Director will make inquiries of the accused and may arrange for a mediation session of the parties together, at which the Director will preside. The goals of these discussions are to discuss the meaning of Title IX, identify inappropriate behavior, propose remediation, and develop plans to modify the policy or practice from which the behavior arose. It is expected that the entire informal remediation process be completed within 30 days after the

consultation (Step 1). The Director shall keep a record of the matter, results of all meetings, and remedial actions. *Informal remediation is a prerequisite to Step 3.*

**Step 3 – Formal Grievance:** If the complainant deems the incident to be persistent or severe, or believes that informal remediation efforts have not satisfactorily resolved the matter, s/he may file a written complaint with the Director of Title IX Compliance. (The complaint may be filed by the complainant, his/her parent or guardian, or a third party on his/her behalf.) The complaint will be filed no more than 15 days after the informal remediation process (Step 2) is completed. (The complainant may request the assistance of a Liaison.) If necessary, the University may take interim remediation actions, which include, but are not limited to, the following:

- ensuring that the complainant and the accused do not attend the same classes;
- providing an escort to ensure that the complainant can move safely between classes and activities; and
- moving the complainant and the accused to a different residence hall.

Within 15 days of receiving the written complaint, the Director will conduct a formal investigation. The Director shall determine whether the facts support the allegations and, if so, recommend disciplinary action, up to and including expulsion from the University. The Director shall develop a detailed report that summarizes the allegations, the facts, and the recommended disciplinary action. The Director will inform the complainant and the accused of the outcome within 5 days of the completion of the investigation. *Filing a formal grievance is a prerequisite to Step 4.*

**Note:** The Director may request the assistance of a member of the Title IX Committee with the investigation. This individual may be asked to conduct or assist in the investigation. An individual serving in this role may not serve on the review panel.

**Step 4 – Review Panel:** Either the complainant or the accused may appeal the decision to a review panel. The appeal must be made within 5 days of the date on which the Director informs the appellant in Step 3.

The panel shall consist of five (5) individuals from the Title IX Committee. The Director of Title IX Compliance shall choose these individuals and designate the panel chair. The panel shall not be comprised of individuals who are all the same gender. The Director shall not serve on the panel.

If the allegations involve a GPS student or GPS faculty member, the panel shall include at least one individual who is connected with GPS. A Title IX Committee member who is named in a complaint shall be disqualified from serving on the panel. (The same holds true if a Title IX Committee member's immediate family is involved in the incident or its investigation.)

The complainant and the accused may invite one advisor of choice to the review panel hearing. (For the complainant, this may be a Liaison.) The advisor's role is advisory only; the advisor is not permitted to question hearing participants or make public comments to participants in the hearing.

The review panel hearing shall be conducted in accordance with the following procedures:

- The chair will convene the meeting, introduce the individuals, give a brief description of the process, and invite questions about the process.

- The chair will read the allegation(s) and call for the report of the Director of Title IX Compliance.
- The Director will submit the report as evidence and discuss same.
- Members of the panel may question the Director.
- The complainant may read a brief initial summary statement.
- The accused may read a brief initial response statement.
- The complainant may present evidence and witnesses regarding the allegations.
- The accused may present evidence and witnesses regarding the allegations.
- The complainant may present a brief final summation.
- The accused may present a brief final summation.
- After the hearings are completed, the panel shall deliberate in unrecorded executive session, during which it will consider the evidence, establish findings, develop sanctions and/or recommendations, and include an appropriate time frame within which the sanctions and/or recommendations will be carried out.
- Within 10 days of the close of the hearings, the chair will submit a written report that summarizes the findings, sanctions and/or recommendations, and time frame to the following individuals: complainant, accused, Director of Title IX Compliance, and appropriate SLT member – the SLT member (in consultation with the President) will take the necessary action to resolve the issue within the time defined in the chair’s report – the panel determination is final and non-appealable.

Other review panel and hearing considerations are as follows:

- To prevent the hearing from being traumatic or intimidating to the complainant or the accused, questioning will be restricted to the panel – the complainant and the accused cannot cross-examine or question each other or any witnesses.
- Attorneys are not permitted to participate in any way or attend any meetings or hearings – the same holds true for any other individuals considered external to the appeal, including, but not limited to parents, relatives, media representatives, and guests.
- The complainant’s burden of proof shall be “a preponderance of the evidence” (i.e., more likely than not), rather than the higher “beyond a reasonable doubt” standard that is required in criminal cases or the “clear and convincing” standard that is found in some civil cases.
- If the complainant expresses discomfort or requests isolation, the chair will provide for separation of the complainant and the accused during the hearing.
- Due to state and federal laws that protect the complainant from inquiry about prior sexual history (i.e., rape shield laws), the complainant may not be questioned about prior sexual history.
- If the panel determines that permanent separation orders are appropriate, the appropriate supervisory personnel are responsible for implementing same.
- Panel members are to maintain confidentiality of the information presented in the hearing and their deliberations – all communications to the campus or beyond must go through the chair – all records related to the matter shall remain confidential and subject to release only to the panel and the SLT member, unless otherwise required by law.
- Within a reasonable time after the hearing, the Director of Title IX will conduct a post-incident follow-up with the complainant and provide a written summary to the SLT member.
- If necessary, the panel shall consult with the University attorney.

The following matters are endemic to sexual harassment and sexual violence:

- The complainant may bypass or end Step 1 or Step 2 at any time and proceed directly to Step 3.
- Mediation (this is part of Step 2) is not appropriate under any circumstances.
- Complainants have the right to have the incident investigated by law enforcement authorities, have full and prompt cooperation and assistance in obtaining evidence necessary for proof of criminal acts (including a medical examination), and have the accused tested for communicable diseases – the Director of Title IX Compliance will inform the complainant as to how to contact law enforcement authorities and will assist in the process, if the complainant requests.
- If law enforcement authorities are involved, the Director of Title IX Compliance will request access to their notes – any agreement between the University and law enforcement authorities must allow the University to meet its Title IX obligation to promptly investigate complaints, even though it may delay University fact-finding – interim remediation actions, if any, will remain in effect during this time.
- The University will treat all complainants with respect, whether or not they wish to pursue the matter with law enforcement authorities, make their options clear, cooperate with them in exercising their options, and assist them in the investigation – complainants should be treated physically and emotionally in a timely and proper manner – and be made aware of the importance of preserving evidence that may be necessary to the proof of a criminal act.
- While the complainant may request confidentiality, s/he needs to know that the request will be weighed against the seriousness of the allegation(s), that the University’s ability to respond may be limited, and the FERPA rights of the accused might be implicated.
- Regardless of the action or lack of action by law enforcement authorities, the University will discipline individuals who are accused of sexual harassment or sexual violence based on the evidence it has before it,
- Complainants should immediately report the incident to a Resident Director, a Resident Assistant, a Counselor, medical or safety personnel, or the police – emergency 911 service is available to report a crime in progress.
- Complainants have the right to be free from pressure from University authorities to report crimes as lesser offenses.
- Counseling and mental health services (some fee-based and some for no charge) are available to complainants, both on the main University campus and in the community.
- A full-time registered University nurse is available each weekday during the academic year – evening and weekend medical services may be obtained by contacting medical or safety personnel.
- Chaplaincy services are available at every University location.
- If a resident student feels physically or sexually intimidated, s/he should report this to his/her Resident Director - s/he may request a change in academic and living situations, if such changes are reasonably available.
- By law, felonious sexual violence must be reported to law enforcement authorities by the University – the Director of Title IX Compliance is responsible for this – the complainant cannot prevent the University from such reporting in good faith.
- By law, when complainants are under 18 years of age, the Director of Title IX Compliance will immediately notify the parents or guardians, the appropriate state agency, and law enforcement authorities.

## Education, Training, and Awareness

Consistent with institutional values that reflect respect for others, the University educates its members as to how to identify and prevent sexual discrimination, sexual harassment, sexual violence, and other inappropriate behavior. With this knowledge, University members become more sensitized and can help keep the University community free of these behaviors. Although this is not intended to be an exhaustive list, the following steps support these efforts:

- The Director of Title IX Compliance keeps abreast of current regulations.
- The Title IX Committee reviews the Title IX Policy and conduct periodic self-evaluations of University programs, policies, and activities to determine compliance with Title IX requirements.
- The Title IX Policy is disseminated through multiple media, including, but not limited to, publications (e.g., catalogs, handbooks, etc.), the University website and portal, orientations, awareness programs, and placement in prominent campus locations.
- The Title IX Contact poster is displayed on the main campus, at non-main campus locations, and on the University web site.
- New employees are advised of policies and procedures during orientation.
- New traditional students are advised of policies and procedures during orientation.
- New GPS students are advised of policies and procedures before they begin their studies.
- New online students are advised of policies and procedures before they begin their studies.
- By virtue of their contracts, faculty (including adjuncts) are expected to become familiar with policies and procedures.
- Resident Assistants and Resident Directors review policies and procedures before they begin their work.
- Coaches advise athletes of policies and procedures at the beginning of their seasons.
- Students involved in off-campus study travel are advised of policies and procedures before they begin their studies.
- Students involved in practicums, clinicals, student teaching, and other off-campus study are advised of policies and procedures before they begin their studies.
- Certain University personnel receive Title IX training.

## Reporting Requirements, Confidentiality, Retaliation, and Frivolous/Fraudulent/Malicious Charges

*Mandatory Reporting:* Certain University personnel, by virtue of their roles, responsibilities, and authority, **must** report incidents of sexual discrimination, sexual harassment, and sexual violence. These individuals include senior-level administrators, mid-level managers with responsibilities for corrective action, and campus safety members. These individuals might learn of such incidents directly or indirectly.

*Discretionary Reporting:* Other University personnel are in position to receive information about incidents of sexual discrimination, sexual harassment, and sexual violence, but do not have responsibility or authority for corrective action. Unless the complainant requests confidentiality and privacy, these employees **may** report such incidents to their supervisors without breaking the privacy of personal communication. These individuals include Resident Assistants, faculty, group sponsors, student organization advisors, career services staff, student activities personnel, and others.

*Confidentiality and Privacy:* Individuals who desire confidentiality and privacy related to incidents of sexual discrimination, sexual harassment, and sexual violence are encouraged to seek University counseling services, health services personnel, or campus ministry staff.

*Retaliation:* The University prohibits retaliation against anyone reporting or cooperating in the investigation of any sexual discrimination, sexual harassment, and sexual violence complaint. Violation of this policy by any of its members shall subject that individual to disciplinary action, up to and including discharge. If the complainant believes that retaliation has occurred and seeks University resolution, s/he is obligated to follow the aforementioned process.

*Frivolous, False, or Malicious Charges:* Students and employees will not suffer adverse consequences as a result of reporting a matter involving sexual discrimination, sexual harassment, and sexual violence in good faith. However, the protocol shall not be used to initiate frivolous claims, false claims, or malicious charges without regard to the truth. After the completion of remediation efforts, if the Director for Title IX Compliance concludes that the complainant's allegations were false, frivolous, or malicious, the Director may recommend disciplinary action against the complainant, up to and including expulsion from the University.

**Approved by the Senior Leadership Team (November, 2011)**

**Updated (March 2012). Updates made to Title IX Committee faculty and staff representative language.**