

Sex/Gender-Based Harassment, Discrimination and Sexual Misconduct Procedures

I. Responding to Reports Concerning Sexual Misconduct, Including Sex/Gender- Based Harassment or Discrimination

Mount Vernon Nazarene University provides for a prompt and effective response to all notice of a potential violation of this policy. The University engages in a prompt preliminary inquiry to determine if there is reasonable cause to believe the policy has been violated. If so, the University will initiate an investigation that is thorough, reliable, impartial, prompt and fair. This investigation determines whether the University's policy has been violated. If so, the University will promptly implement an effective remedy designed to end the misconduct, prevent its recurrence and address its effects.

This procedure addressing sexual misconduct (sexual harassment or discrimination), is operated by the University, and under the requirements of Title IX must act in response to notification of possible sexual misconduct. Anyone who believes they have been subjected to discrimination or harassment in violation of this policy should follow these procedures to report the incident and their concerns.

Its purpose is to determine whether a violation of its rules occurred and, if so, what sanctions and remedies should apply. Because under Title IX, sexual misconduct is a form of discrimination prohibited by civil rights laws, the standard for finding a student responsible for a sexual misconduct violation is “**preponderance of evidence**” (or “more likely than not”).

Mount Vernon Nazarene University operates under its own rules, procedures, standards, and sanctions, which are described in the Title IX Policy and Title IX Procedures. The Title IX Coordinator handles all Title IX matters, including investigations, resolution methods, findings, and collaborates with specified personnel on sanctions. Filing a report about sexual misconduct with the University

is independent of filing a report with the police. You may file reports with the University and the police, which we encourage; with the University, only; or with the police, only. If you file complaints with both the University and the police, the University will not wait for the criminal justice system to run its course before commencing its own process, except in cases where the University temporarily delays its investigation while criminal investigators gather evidence. Occasionally, the University and police will share information and conduct joint investigations for the sake of efficiency, but how they use the results will be decided independently.

An investigation may take at least 21 business days, or more, depending upon the number and availability of witnesses, the academic calendar, and other factors. Cases where violence and/or harassment have occurred will take priority. It is a goal to resolve complaints within 60 business days from the reported incident. The timeframe will exclude the days that classes are not in session. The University may extend an investigation process for reasonable circumstances and will provide this information to the reporting and responding parties in writing. The 60-day window will not include appeals that may be filed.

II. Reporting

The University encourages prompt reporting of any Prohibited Conduct stated within this policy— in person or by submitting an online Incident Report. At the time a report is made, a reporting party does not have to decide whether or not to request any particular course of action, nor does a reporting party need to know how to identify what happened. Choosing to make a report, and deciding how to proceed after making the report, can be a process that unfolds over time. The University provides support that can assist a reporting party in making these important decisions, and to the extent possible, will respect a reporting party's autonomy in deciding how to proceed. The University will balance a reporting party's interest with its obligation to provide a safe and non-discriminatory environment for all members of the University community.

The University encourages all individuals to seek assistance from medical provider(s) and/or law enforcement immediately after an incident of Prohibited Conduct, whether or not the reporting party plans to pursue criminal charges. This is the best option to ensure preservation of evidence and to begin a timely response by law enforcement.

If an individual believes that the Title IX Coordinator has engaged in Prohibited Conduct or has otherwise behaved inappropriately, the individual shall contact the President of Mount Vernon Nazarene University.

REPORTING

- **Reporting to Law Enforcement**
- **Campus Reporting Options**

- **Anonymous Reporting**
- **Reporting Considerations**

A. Reporting to Law Enforcement

The Title IX Coordinator or Campus Safety will assist a reporting party, at the reporting party's request, in contacting local law enforcement and will cooperate with law enforcement agencies if a reporting party decides to pursue the criminal process. A reporting party has the right to notify, or decline to notify law enforcement, under VAWA. Felonies reported to the University (except to confidential resources), however, must be reported to law enforcement by the University, as required by Ohio law (Ohio Revised Code 2921.22). Under most circumstances, the reporting party may decline to participate in a law enforcement investigation.

The University's policy, definitions, and burden of proof may differ from [Ohio criminal law](#). A reporting party may seek resolution through the University's resolution process, may pursue criminal action, may choose one but not the other, or may choose both options. Neither law enforcement's determination whether or not to prosecute a responding party nor the outcome of any criminal prosecution are determinative of whether Prohibited Conduct has occurred under this policy. Proceedings under this policy may be carried out prior to, or concurrent with, civil or criminal proceedings off campus.

At the request of law enforcement, the University may agree to briefly defer its Title IX fact gathering until after the evidence gathering stage of a criminal investigation. The University will nevertheless communicate with the reporting party regarding Title IX rights, procedural options and the implementation of interim measures to assure safety and well-being. The University will promptly resume its Title IX fact gathering as soon as it is informed that law enforcement has completed its initial gathering of evidence. The University may not, by federal law, wait to address reports of sexual and gender-based harassment and violence until any external legal processes are resolved.

B. Campus Reporting Options

The University is committed to providing a variety of welcoming and accessible means so that all instances of Prohibited Conduct will be reported.

To enable the University to respond to all reports in a prompt and equitable manner, the University encourages all individuals to report any incident directly to the Title IX Coordinator in person or through the online [Incident Report](#). However, the University recognizes that a student or employee may choose to report to any trusted employee of the University.

All University employees (except those who are designated as confidential resources) are considered “**responsible employees**” under Title IX and are required to share all known information related to a report, including the identities of the parties, with the Title IX Coordinator. In addition, student employees/volunteers who have responsibility for the welfare of other students, e.g., Student Residents (RA), are required to report all known information. Other student employees who receive information within the context of their jobs are required to report to the Title IX Coordinator.

Title IX Coordinator

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Reports can also be made directly to Campus Safety (24-hour availability) during non-business hours.

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C. Anonymous Reporting

Any individual may make an anonymous report concerning an act of Prohibited Conduct. A report can be made without disclosing one’s own name, identifying the responding party, or requesting any action. Depending on the level of information available about the incident or the individuals involved, anonymous reporting may limit the University’s ability to respond or take further action.

Anonymous reports can be submitted through the University’s website. Follow-up communications with the person submitting the anonymous report are not possible unless contact information is provided.

As with all other reports, anonymous reports will be shared with the Title IX Coordinator. Where there is sufficient information, the University will ensure that anonymous reports are reviewed and included for compliance with the Clery Act.

Employees who have a duty to report information to the Title IX Coordinator under this policy may not make such reports anonymously.

D. Reporting Considerations

1. Advisors

All parties are entitled to an advisor of their choosing to guide and accompany them throughout campus resolution process. The advisor may be a friend, mentor, family member, or any other supporter a party chooses to advise them who is both eligible and available. People who will be called as witnesses may not serve as advisors.

The advisor is a silent and non-participating presence that is there solely to observe and provide support during the investigative process. They are expected to refrain from interference with the University's investigation and resolution.

2. Timeliness of Report

In order to maximize the University's ability to respond promptly and effectively, all those impacted by Prohibited Conduct are encouraged to report as soon as possible. There is no time limit on reporting violations of this policy, though prompt reporting by responsible employees is expected. If the reporting party is no longer a student or employee at the time of the report, the University may not be able to take disciplinary action against the responding party, but it will still seek to meet its Title IX obligation by providing support for the reporting party and taking other appropriate action to eliminate, prevent and address the effects of the Prohibited Conduct. The University will also assist a reporting party in identifying external reporting options.

3. False or Malicious Reports

Students and employees will not suffer adverse consequences as a result of reporting a matter involving sexual misconduct in good faith. However, the protocol shall not be used to initiate frivolous or malicious charges without regard to the truth. After the completion of remediation efforts, if the Title IX Coordinator concludes that the complainant's allegations were false or malicious, the coordinator may recommend disciplinary action against the complainant, up to and including expulsion or termination from the University.

4. Reporting to the Office of Civil Rights

Mount Vernon Nazarene University's Sex/Gender-Based Harassment, Discrimination and Sexual Misconduct Policy and Procedures comply with federal law. The University's policies are subject to Title IX of the Education Amendments of 1972. Title IX bans sexual discrimination in schools that receive federal financial aid. If you believe the University has failed to follow its Title IX

obligations, you may contact the Office of Civil Rights in the US Department of Education (ocr@ed.gov).

III. Interim Measures

Upon receipt of a report of Prohibited Conduct, the Title IX Coordinator may provide interim measures to either party, intended to address the short-term effects of harassment, discrimination, and/or retaliation, i.e., to redress harm to the alleged victim and the community and to prevent further violations. Thus, these interim measures may be remedial and/or protective. The University will keep interim remedies and actions as private as possible.

Remedial measures are available regardless of whether the reporting party chooses to pursue any action under this policy.

These remedies may include, but are not limited to the extent reasonably available and warranted by the circumstances:

Interim Measures

- **Referral to counseling and health services**
- **Education to the community**
- **Altering housing or residence arrangements**
- **Altering work arrangements for employees**
- **Providing campus escorts**
- **Providing transportation accommodations**
- **Implementing contact limitations between parties, i.e., “no contact” order or assisting in protective orders**
- **Offering adjustments to academic deadlines, course schedules, alternative course completion options, etc.**
- **Limiting extracurricular or athletic activities**
- **Other appropriate actions as necessary to stop the prohibited conduct, prevent its reoccurrence, and remedy its effects on a party or improve the University community.**

The University at the discretion of the Title IX Coordinator in consultation with the appropriate administrative officer, who would not typically serve as the decision maker for the sanction, may provide an interim suspension. This entails the removal of a student, employee or organization from campus when, given the nature of the Prohibited Conduct, remaining on campus may be threatening or potentially injurious to the well-being or property of members of the University community. In addition, during an interim suspension or administrative leave, a student or employee may be denied access to University housing and/or University campus/facilities/events.

Interim measures are not disciplinary in nature and will not be included on the responding party's transcript. At the discretion of the appropriate officer and Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an impact as possible on the responding party. Leave for an employee will be structured at the University's discretion in consultation with the appropriate administrative officer.

IV. Resolution Process

The University will conduct a Title IX Assessment and determine the most appropriate manner of resolution under this policy.

Resolution Process

- **Reporting**
- **Initial Assessment**
- **Informal Resolution**
- **Formal Resolution**

A. Reporting

1. Individuals who believe they may have witnessed or been subjected to Prohibited Conduct are encouraged to make a report with the Title IX Coordinator.

All employees of the University that become aware of Prohibited Conduct are required to make a report to the Title IX Coordinator. The person who may have been subjected to Prohibited Conduct is referred to as the reporting party. The person who may have committed Prohibited Conduct is referred to as the responding party.

The University recognizes that members of its community may experience sexual misconduct in situations outside of the University's jurisdiction. In these cases, the University will provide assistance to the reporting party, such as assisting them in contacting law enforcement, identifying medical and/or counseling providers, and offering accommodations as appropriate.

2. The reporting party will be offered the opportunity for an initial discussion to give the reporting party the opportunity to recount what has taken place and discuss how best to proceed. The reporting party will be permitted to have an advisor of their choice during this discussion. The Title IX Coordinator will review with the reporting party the University's procedures for both informal and formal resolution, the rights of the reporting party, potential interim measures of protection, information relating to law enforcement

reporting if appropriate, and available medical and/or counseling resources as appropriate. Options for, and available assistance in, changing academic and living situations can be discussed and provided if so requested, and if such changes are reasonably available. Except in certain serious circumstances as discussed more below, it is at all times the reporting party's decision whether they will seek interim measures of protection, informal resolution, and/or formal resolution. As a result of this meeting, depending on the nature of the allegations, the Title IX Coordinator may be obligated to report the incident to law enforcement pursuant to state law.

If the reporting party requests confidentiality or asks that the complaint not be pursued, the University will take all reasonable steps to investigate and respond to the reporting party consistent with the request for confidentiality or request not to pursue an investigation. If a reporting party insists that their name or other identifiable information not be disclosed to the alleged perpetrator, the University will inform the Responding Party that its ability to respond may be limited.

In certain serious circumstances and despite a reporting party's request for confidentiality, the University may determine that it is necessary to address the report in order to provide a safe and nondiscriminatory environment for all students, including the reporting party. Factors that will be considered may include:

- Circumstances that suggest there is an increased risk of the alleged perpetrator committing additional acts of sexual violence or other violence (e.g., whether there have been other sexual violence complaints about the same alleged perpetrator, whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence, whether the alleged perpetrator threatened further sexual violence or other violence against the student or others, and whether the sexual violence was committed by multiple perpetrators);
- Circumstances that suggest there is an increased risk of future acts of sexual violence under similar circumstances (e.g. whether the student's report reveals a pattern of perpetration at a given location by a particular group);
- Whether the sexual violence was perpetrated with a weapon;
- The age of the individual subjected to the sexual violence; and
- Whether the University possesses other means to obtain relevant evidence (e.g. electronic or personnel, physical evidence).

If the University determines it is necessary to disclose a reporting party's identity to a responding party, it will inform the reporting party prior to the disclosure.

3. Specific Parties

a. Title IX Coordinator

If an individual believes that the Title IX Coordinator has engaged in Prohibited Conduct or has otherwise behaved inappropriately, the individual shall contact the President of Mount Vernon Nazarene University. An inquiry assessment and/or investigation will occur following Title IX protocol.

b. President of the University

If an individual believes that the President of the University has engaged in Prohibited Conduct or has otherwise behaved inappropriately, the individual shall contact the Title IX Coordinator who will refer it to the Board of Trustees for an inquiry assessment and/or investigation where outside investigators may be procured to resolve any potential conflicts of interest.

B. Initial Assessment

Upon receipt of a report, the Title IX Coordinator will conduct an initial assessment or inquiry to determine the appropriate response to the report under this policy. This assessment is to determine whether the reporting party alleges sufficient information to suggest that Prohibited Conduct may have occurred.

If the reported information would not support a violation of Prohibited Conduct, the Title IX Coordinator may decline to pursue an investigation. The matter may be referred to the appropriate administrative office, when appropriate. The Title IX Coordinator will communicate the decided upon manner of resolution to the reporting party in writing.

If the reporting information supports a violation of Prohibited Conduct, the reporting party may discuss their concerns with the Title IX Coordinator and choose to pursue action through an informal resolution process or formal resolution process. This informal process is not permitted in cases involving sexual violence pursuant to federal guidance.

C. Informal Resolution

The Informal Resolution process is designed to eliminate the hostile environment without taking formal disciplinary action against a responding party. Participation in the Informal Resolution process is voluntary, and

either party can request to end this informal resolution at any time. Pursuing Informal Resolution does not preclude a Formal Resolution process at a later date, if the Informal Resolution process fails to achieve a resolution or if the Informal Resolution is violated. The Title IX Coordinator may refer a report for Formal Resolution at any time, if appropriate.

As part of the Informal Resolution, the Title IX Coordinator may use the remedial measures mentioned above or what is necessary to:

1. Resolve the report through the implementation of remedies that support the conduct.
2. Act promptly in assisting parties with corrective actions.

The Title IX Coordinator will maintain records of all reports and conduct referred for Informal Resolution. When the responding party is a student in this process, the Informal Resolution will not be recorded in reporting party's transcripts. When the responding party is an employee, a notation will be made in the employee's file maintained by the Office of Human Resources.

D. Formal Resolution

The reporting party may choose to resolve a report through the Formal Resolution process, provided the initial assessment demonstrates that the information available suggests that Prohibited Conduct may have occurred to warrant an investigation. The Title IX Coordinator will identify the potential violations and prepare the initial notification of charges.

1. Investigation

- a. Notice of Alleged Violation
 - i. Both parties will receive written notice that an investigation has been initiated.
 - ii. The notice will include the identities of the parties involved, the precise conduct allegedly constituting the potential violation and the date and location of the alleged violation.
 - iii. This notice will be provided in advanced of any interview with investigators, to sufficiently prepare.
 - iv. The charges may be amended at any time during the investigative process. Due notice will be provided to all parties if amendments are made during the process.
- b. Investigator's Duties
 - i. The Title IX Coordinator or Deputy will designate two trained investigators to conduct an adequate, reliable, and impartial investigation. When

necessary, the University may use an external investigator.

- ii. The Investigator will interview the parties and witnesses. Witnesses must have observed the acts in question or have information relevant to the incident. The investigators must also obtain or gather any physical evidence (documents, communications, electronic records, etc.) that would assist the investigation.
- iii. Both parties have equal opportunity to be heard, submit written questions for the investigators, submit information and evidence; and identify potential witnesses who may have relevant information.
- iv. In gathering the facts, the investigators may consider similar prior or subsequent reports of, or findings of responsibility for similar conduct by the responding party to the extent such information is relevant. Such patterns may indicate a heightened risk to the campus community, and therefore can be taken into account during an investigation. However, the sexual history of the reporting party will never be used to prove character or reputation. Moreover, evidence related to prior sexual history of either party is generally not relevant to the determination of a policy violation and will only be considered in very limited circumstances.
- v. The University will seek to complete the investigation within sixty days from the notice of the investigation, but this time frame may be extended for good cause with written notice to all parties.

2. Review of Investigation and Initial Investigative Report

- a. After conducting an initial investigation, the investigators will prepare an initial investigative report that summarizes the relevant evidence collected. The following evidence will not be included in the report:
 - Testimony of the character of an individual;
 - Information regarding the Reporting Party's sexual history with anyone other than the Responding Party, unless necessary to explain the presence of a physical injury to help resolve another question raised by the investigation;
 - Information that is more prejudicial than probative; and
 - Information regarding mediation that may have occurred between the parties in attempt at an informal resolution.

- b. The Title IX Coordinator will share the initial investigation report with both parties and provide each of them with the opportunity to review the report. Both parties may respond within five business days to submit additional comments and/or evidence. The investigators will conduct any additional follow-up that they deem appropriate prior to the final report.

3. Determination of Responsibility

- a. Final Investigative Report:
 - i. The investigators will make a determination by a preponderance of the evidence (more likely than not), whether there is sufficient information to support a finding of responsibility.
 - ii. Final Investigative Report will include the finding and the rationale for the finding. This report will be provided to the Title IX Coordinator.
 - iii. The Title IX Coordinator will share this report with both parties.
- b. If no policy violation is found to have occurred, either party may appeal the decision.
- c. If a policy violation is found to have occurred, the final investigative report will be sent to an adjudicator. The Title IX Coordinator in consultation with the appropriate decision maker will determine the appropriate sanctions.

4. Decision maker

- a. The decision maker is determined by the status of the responding party.
- b. For reports against traditional students or student groups, the decision maker is typically the Vice President for Student Life or designee.
- c. For reports against Graduate and Professional Studies (GPS) students or student groups, the decision maker is typically the Vice President and Dean for the School of Graduate and Professional Studies (GPS) or designee.
- d. For reports against staff the decision maker is typically the Director of Human Resources or designee.
- e. For reports against faculty, the decision maker is typically the Vice President for Academic Affairs or designee.
- f. For reports against third party vendors or guests, the decision maker is typically the Vice President for Finance/CFO or designee.
- g. When the typical decision maker is unable to serve, the Title IX Coordinator will select a trained individual to be the decision maker and notify the parties. The parties have one business day after receiving written notice to respond if they believe the decision maker is biased or

there is a conflict of interest. Moreover, if the decision maker believes that they cannot make an objective determination, they must recuse themselves.

- h. The decision maker must be neutral and impartial.
- i. The University will seek to complete the imposition of sanction within ten business days of the notice of referral to the decision maker, but this time frame may be extended for good cause with notice to both parties.

5. Sanctions

- a. The sanctions shall be communicated simultaneously to each party in writing within five [5] business days of the decision maker's receipt of the final investigative report. The letter must also include the rationale for the result, as well as the appeal rights of the parties.
- b. The sanction is designed to eliminate the Prohibited Conduct, prevent its reoccurrence, and address its effects, while supporting the University's educational mission and Title IX obligations. The decision maker will impose a sanction based upon the following factors:
 - i. The responding party's prior conduct history;
 - ii. How the University has sanctioned similar incidents in the past;
 - iii. The nature and violence of the conduct at issue;
 - iv. The impact of the conduct on the reporting party;
 - v. The impact of the conduct on the community, its members, or its property;
 - vi. Whether the reporting party has accepted responsibility for their actions;
 - vii. Whether the evidence, in conjunction with the prior conduct history, suggests that the responding party is reasonably likely to engage in the same or similar conduct in the future;
 - viii. The need to deter similar conduct by others; and
 - ix. Any other mitigating or aggravating circumstances, including the University's values.
- c. Sanctions that may be imposed include, but are not limited to (see Student, Staff or Faculty Handbook):
 - Continuing "no contact" orders;
 - Trespass order prohibiting presence on campus, at University owned facilities, and/or at campus activities or events;
 - Fines/work detail;
 - Required counseling;
 - Alcohol/drug assessment;

- Restitution/Restoration, where property has been damaged/stolen or funds have been misappropriated;
- Campus Restriction on behavior, access to certain campus facilities, participation in campus activities, housing restrictions, and/or scheduling restrictions;
- Social Probation;
- Suspension of student;
- Dismissal;
- Written warning of employee;
- Suspension of employee, with or without pay;
- Termination of employment; and
- Cancellation of third-party contract.

6. Notice of Outcome

The decision maker will provide the decision maker's written determination of the outcome, the sanction and the rationale for each to both parties. The parties will be informed of any sanctions, the date by which the requirements must be satisfied (if applicable), and the consequences of failure to satisfy the requirements.

The outcome letter will also provide each party with their appeal options. If, under extenuating circumstances, there are any changes to the outcome, both parties will be simultaneously notified at the earliest possible time. The University may also notify appropriate University officials, including a direct supervisor of a sanction, as necessary to implement the outcome and/or sanctions.

7. Appeal

Either party may request an appeal by submitting a written notice of appeal to the Title IX Coordinator within five (5) business days from the date of the final investigative report, if no policy violation is found, or within five (5) business days from the date of the adjudication letter, if a policy violation is found. A delay in filing the appeal may be grounds for rejection of that appeal.

The written notice of appeal must outline the reasons for the appeal and must be based on at least one of the following:

- New evidence that was unavailable at the time of the original investigation;
- Evidence of non-adherence to this policy or procedural irregularities that substantially affected the outcome of the case;
- Evidence that the sanction received as grossly disproportionate to the conduct for which the party was found responsible; i.e., was the decision one that a person in the position of the decision-maker might reasonably have made?

Dissatisfaction with the outcome of the case is not a permissible ground for appeal. If the written notice of appeal is not based on at least one of the reasons for an appeal, the Title IX Coordinator may reject the appeal with written notice to the appealing party. The party may then submit a revised written notice of appeal within the original timeline.

If the written notice of appeal is deemed by the Title IX Coordinator to be sufficient, the other party will be provided with a copy of the written notice of appeal and will be provided with five (5) business days to provide a written response to the Title IX Coordinator. The Title IX Coordinator will provide a copy of the response to the appellant, but no further reply will be permitted.

The Title IX Coordinator will facilitate the appeal by choosing a trained administrative officer within the University; i.e., Vice President for Student Life, Vice President and Dean for the School of Graduate and Professional Studies, Director of Human Resources, Vice President for Academic Affairs, or the Vice President for Finance/CFO. The chosen appeal's officer cannot be the decision maker that handled the current report if a sanction was imposed. The appeals officer will independently review information relevant to the appeal. The appeals officer shall be permitted to ask questions of the investigator, adjudicator, and Title IX Coordinator, but speaking with parties or other witnesses is not permitted. The appeals officer may:

- Affirm the original decision and sanctions, if any;
- Reverse original decision and remove or add sanctions as appropriate;
- Affirm the original decision but revise the sanctions; or
- Request that additional steps be taken.

The appeals officer shall issue a written decision simultaneously to both parties and include the rationale for the decision within ten (10) business days of receipt of all appeal documents. The decision of the appeals officer shall be final.

V. Records

Records will be maintained regarding the report, the investigation, evidence presented during the disciplinary process, the outcome of the disciplinary process, the outcome of any appeal, and any temporary and permanent remedies put in place by the University to address the Prohibited Conduct. Such records will be maintained by the Title IX Coordinator and, if a student is found responsible for conduct prohibited by this policy, by the University for at least ten years after the last party graduates, leaves the employment of the University, or otherwise is no longer a student or employee. Such records will be accessible only to the extent

permissible under applicable records confidentiality and disclosure laws, including the Family and Educational Rights and Privacy Act, 20 U.S.C. 1232g, and the Clery Act, 20 U.S.C. 1092(f).