



Campus Updates

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Gender-Based and Sexual Misconduct

Established: August 2011

Date Last Revised: August 1, 2021

Approved by: Title IX Coordinator

Responsible Office: Diversity, Equity and Inclusion

Responsible Senior Staff Member: Title IX Coordinator or designee

Statement

Mount Holyoke College (the College) is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from discrimination, harassment, and retaliation. To ensure compliance with federal and state civil rights laws and regulations, and to affirm our commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, the College has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of protected class status, and for allegations of retaliation.

Title IX of the Education Amendments of 1972

Title IX of the Education Amendments of 1972 ("Title IX") is a federal civil-rights law that prohibits discrimination on the basis of sex in education programs and activities. Under Title IX, discrimination on the basis of sex can include sexual harassment, gender-based harassment, sex or gender based discrimination, sexual assault, and other forms of sexual misconduct, including stalking and intimate partner violence.

Mount Holyoke College's Policy for Gender-based and Sexual Misconduct ("Policy") prohibits the following types of conduct as defined in below (also referred to collectively as "Prohibited Conduct"):

- **Title IX Misconduct** (i.e., Quid Pro Quo Sexual Harassment; Severe, Pervasive and Objectively Offensive Sexual Harassment; Sexual Assault; and Sex-Based Intimate Partner Violence and Stalking; as defined by and within the scope of Title IX); and
- **Gender-Based and Sexual Misconduct** (i.e. Sexual or Gender-Based Harassment; Non-Consensual Sexual Intercourse; Non-Consensual Sexual Contact; Relationship Violence; Sexual Exploitation; Sex and/or Gender-Based Stalking; Sex and Gender-Based Discrimination; Retaliation).

The College must define and respond to the Title IX Misconduct as required by regulations issued in May 2020 by the U.S. Department of Education to implement Title IX of the Education Amendments of 1972, codified at 34 C.F.R. Part 106 (the “Title IX Regulations”). The Title IX Regulations allow the College to define and regulate Prohibited Conduct that falls outside the definition of Title IX Misconduct, but which the College is committed to addressing as a matter of College policy and/or as required by other applicable law.

Accordingly, the College’s policy prohibiting Gender-Based and Sexual Misconduct and Title IX Misconduct is consistent with the Title IX Regulations, as well as our mission and commitment to ensuring a safe and non-discriminatory campus community.

This Policy sets forth how the College will proceed once it is made aware of possible Prohibited Conduct. For a formal report including alleged violations of Title IX Misconduct, the College will follow the [Formal Grievance Process A \(https://www.mtholyoke.edu/policies/formal-grievance-procedure-alleged-violations-gender-based-and-sexual-misconduct-process-a\)](https://www.mtholyoke.edu/policies/formal-grievance-procedure-alleged-violations-gender-based-and-sexual-misconduct-process-a). For a formal report of alleged violations of Gender-Based and Sexual Misconduct, the College will follow [Formal Grievance Process B \(https://www.mtholyoke.edu/policies/formal-grievance-procedure-alleged-violations-gender-based-and-sexual-misconduct-process-b\)](https://www.mtholyoke.edu/policies/formal-grievance-procedure-alleged-violations-gender-based-and-sexual-misconduct-process-b). If a formal report includes allegations from both Title IX Misconduct and Gender Based and Sexual Misconduct, Process A will be followed. As detailed in the Initial Assessment, reports can also be assessed for resolution through our Alternative Resolution process.

The Policy is in keeping with our institutional values and is intended to meet our obligations under Title VII of the Civil Rights Act of 1964 (“Title VII”); Title IX of the Education Amendments of 1972 (“Title IX”) and regulations promulgated thereunder in 2020; the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”), as amended by the Violence Against Women Reauthorization Act of 2013 (“VAWA”), with respect to its application to Prohibited Conduct; and other applicable law and regulations including the Massachusetts Campus Safety Act.

Policy of Nondiscrimination

Mount Holyoke College is a women’s college that is gender diverse. The College is committed to providing equal access and opportunity in employment and education to all employees and students. In compliance with state and federal law, Mount Holyoke College does not discriminate on the basis of race, ethnicity, color, genetic information, sex, national or ethnic origin, religion, age, physical or mental disability, marital status, sexual orientation, pregnancy, gender identity or expression, ancestry, veteran or military status, or any other legally protected status under federal, state or local law.

— Approved by the Board of Trustees, Fall 2020

Potential violations of this policy will be address through one of the following options:

- [Formal Grievance Procedures Process A \(https://www.mtholyoke.edu/policies/formal-grievance-procedure-alleged-violations-gender-based-and-sexual-misconduct-process-a\)](https://www.mtholyoke.edu/policies/formal-grievance-procedure-alleged-violations-gender-based-and-sexual-misconduct-process-a) or [Process B \(https://www.mtholyoke.edu/policies/formal-grievance-procedure-alleged-violations-gender-based-and-sexual-misconduct-process-b\)](https://www.mtholyoke.edu/policies/formal-grievance-procedure-alleged-violations-gender-based-and-sexual-misconduct-process-b)

- [Alternative Resolution \(/policies/alternative-resolution-alleged-violations-gender-based-and-sexual-misconduct\)](/policies/alternative-resolution-alleged-violations-gender-based-and-sexual-misconduct)

Glossary of Terms

Scope

The core purpose of this policy is the prohibition of all forms of sex and gender based discrimination. This policy applies to students, employees and third parties. (For the purpose of this policy, the College defines “student” as any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing relationship with Mount Holyoke.)

This Policy covers acts of Gender-Based and Sexual Misconduct (as defined in the section on Prohibited Conduct) committed by or against Students, Employees, and Third Parties when the Prohibited Conduct occurs:

- On campus or other property owned or controlled by the College;
- In the context of a College program or activity including, but not limited to, Mount Holyoke sponsored study abroad, research, field work, internship programs, online programs, employment; or
- Outside of a College program or activity but potentially poses a serious threat of harm, has a continuing adverse effect on, or creates a hostile environment for Mount Holyoke Students, Employees, or Third Parties.

This Policy also covers Title IX Misconduct (as defined in the section on Prohibited Conduct) committed by or against Students and/or Employees in a College program or activity, in the United States.

The Respondent must be a member of the Mount Holyoke College community in order for its policies to apply. The Complainant, who may or may not be a member of the Mount Holyoke community.

Regardless of where the conduct occurred, the College will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity.

If the Respondent is unknown or is not a member of the Mount Holyoke College community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local law enforcement or Public Safety and Supports if the individual would like to file a police report.

Further, even when the Respondent is not a member of the Mount Holyoke community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator.

In addition, the College may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from Mount Holyoke College property and/or events.

All vendors serving the College through third-party contracts are subject to the policies and procedures of their employers. The College reserves the right to modify or cancel third party contracts when behavior is reported

that is in violation of College Policy. The College may also address concerns through other channels if appropriate.

When the Respondent is enrolled in or employed by another institution, including one of the other Five Colleges, Smith College, Amherst College, Hampshire College, and the University of Massachusetts Amherst, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies.

Similarly, the Title IX Coordinator may be able to advocate for a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to Mount Holyoke College where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant.

This Policy supersedes any conflicting information in any other College policies with respect to the definitions or procedures relating to Prohibited Conduct.

Oversight

The Vice President for Equity and Inclusion oversees implementation of the Mount Holyoke College's policy on Gender-Based and Sexual Misconduct.

Kijua Sanders-McMurtry

Vice President for Equity and Inclusion

Chief Diversity Officer

Dwight Hall 217

413-538-2800

kijuasm@mtholyoke.edu (<mailto:kijuasm@mtholyoke.edu>)

Title IX Coordinator

The Associate Director of Equity and Compliance serves as the Title IX & 504 Coordinator and oversees implementation of Mount Holyoke College's compliance with Title IX & Section 504 of the Rehabilitation Act. The Title IX Coordinator has the primary responsibility for coordinating the College's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy.

Meet the Title IX Team (<https://www.mtholyoke.edu/risk/title-ix-team>)

Independence and Conflict-of-Interest

The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the Vice President for Equity and Inclusion, Kijua Sanders-McMurtry at kijuasm@mtholyoke.edu (<mailto:kijuasm@mtholyoke.edu>) or 413-538-2800. Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

Reporting

Notice or complaints of Prohibited Conduct and/or retaliation may be made using any of the following options:

1. Reports to a Title IX team member at the contact information listed below.
2. Anonymous Reporting Online: Report can be made using the [Campus Bias, Insensitivity and Discrimination Incident Reporting Form \(https://www.mtholyoke.edu/diversity-and-inclusion/bias_incidents\)](https://www.mtholyoke.edu/diversity-and-inclusion/bias_incidents): which gives the option to remain anonymous. Anonymous reporting can help the College monitor campus climate and inform its training, program planning and policy development. However, the College's ability to take specific action on an incident can be limited depending on the amount of information provided.
3. Reporting to Law Enforcement: A report to [Public Safety and Service \(https://www.mtholyoke.edu/public-safety\)](https://www.mtholyoke.edu/public-safety) can be filed by going directly in person or by calling 413-538-2304 or 911. Public Safety and Service can help identify the appropriate law enforcement agency if the incident occurred off campus. They can also assist in obtaining medical treatment, including a Sexual Assault Nurse Exam (SANE), address immediate safety needs including filing for a emergency restraining order or harassment prevention order, as well as assist victims in evidence preservation.

Filing a Formal Complaint

A Formal Complaint means a document signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that the College investigate the allegation(s). A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail. A formal complaint must be filed in order to proceed with a Formal Grievance. Title IX team members can also assist in reporting to law enforcement if desired.

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding may be made internally to the Title IX coordinator or other member of the [Title IX Team \(https://www.mtholyoke.edu/risk/title-ix-team\)](https://www.mtholyoke.edu/risk/title-ix-team).

In compliance with new Title IX regulations, Mount Holyoke College has also deemed all Officers and Deans of the College to be Officials with Authority (OWA). OWAs may also be contacted with concerns related to this policy or procedures or to give notice of a complaint. OWAs are Mandated Reporters and have an additional duty to report any potential Prohibited Conduct under this Policy to the Title IX team.

Parties may wish to file a complaint with one or more of the following external agencies:

Office for Civil Rights (OCR)

U.S. Department of Education

400 Maryland Avenue, SW

Washington, D.C. 20202-1100

Customer Service Hotline #: (800) 421-3481

Fax: (202) 453-6012

TDD#: (877) 521-2172

Email: [OCR@ed.gov \(mailto:OCR@ed.gov\)](mailto:OCR@ed.gov)

Web: <http://www.ed.gov/ocr> (<http://www2.ed.gov/about/offices/list/ocr/index.html>)

Hampshire County District Attorney's Office

One Gleason Plaza

Northampton, MA 01060

Main: 413-586-9225

Fax: 413-584-3635

Equal Employment Opportunity Commission (EEOC)

John F. Kennedy Federal Building

475 Government Center

Boston, MA 02203

617-565-3200

Massachusetts Commission Against Discrimination (MCAD)

Springfield Office

436 Dwight Street

Springfield, MA 01103

413-739-2145

Boston Office

One Ashburton Place, Room 601

Boston, MA 02108

617-994-6000

Promptness

All allegations are acted upon promptly by the College once it has received notice or a formal complaint. Complaints can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the College will avoid all undue delays within its control.

Time Limits on Reporting

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to the College's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for

future reference, offer supportive measures and/or remedies, and/or engage in Alternative Resolution or Formal Grievance Process, as appropriate.

When notice/complaint is affected by significant time delay, the College will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/complaint.

Amnesty for Complainants and Witnesses

Mount Holyoke College encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to college officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the College community that Complainants choose to report misconduct to college officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, the College maintains a policy of offering parties and witnesses amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution.

Privacy

Every effort is made by Mount Holyoke to preserve the privacy of reports. The College will not share the identity of any individual who has made a report or complaint under this Policy; any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

The College reserves the right to designate which Mount Holyoke officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the FERPA.

Information will be shared as necessary with Investigators, Hearing Panel members/Decision-makers, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

The College may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk.

Note: For the purpose of this policy, privacy and confidentiality have distinct meanings. Privacy means that information related to a complaint will be shared with a limited number of Mount Holyoke College employees who “need to know” in order to assist in the assessment, investigation, and resolution of the report. All employees who

are involved in the College's response to notice under this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act ("FERPA"), as outlined in the Recipient's FERPA policy. The privacy of employee records will be protected in accordance with Human Resources policies. Confidentiality exists in the context of laws that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, and counselors. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients. The College has designated individuals who have the ability to have privileged communications as Confidential Resources. For more information about Confidential Resources, see Section 13. When information is shared by a Complainant with a Confidential Resource, the Confidential Resource cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when: (i) the individual gives written consent for its disclosure; (ii) there is a concern that the individual will likely cause serious physical harm to self or others; or (iii) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or individuals with disabilities. Non-identifiable information may be shared by Confidential Resources for statistical tracking purposes as required by the federal Clery Act. Other information may be shared as required by law.

Mandated Reporting

All Mount Holyoke College employees, including student employees, are expected to report actual or suspected discrimination or harassment to appropriate officials immediately, though there are some limited exceptions.

In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality and are not required to report actual or suspected discrimination or harassment. They may offer options and resources without any obligation to inform an outside agency or campus official unless a Complainant has requested the information be shared.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report crimes and/or policy violations, and these employees must immediately pass reports to the Title IX Coordinator (and/or law enforcement, if desired by the Complainant), who will take action when an incident is reported to them.

Mandated Reporters and Formal Notice/Complaints

Mandated Reporters must promptly share with the Title IX Coordinator all known details of a report made to them in the course of their employment.

Employees must also promptly share all details of behaviors prohibited under this policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Mandated Reporters, as those details must be shared with the Title IX Coordinator.

Generally, disclosures in climate surveys, human subjects research, or at events such as “Take Back the Night” marches or speak-outs do not provide notice that must be reported to the Title IX Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or a seek a specific response from the College.

Failure of a Mandated Reporter, as described above in this section, to report an incident of Prohibited Conduct under this Policy of which they become aware is a violation of Mount Holyoke College policy and can be subject to disciplinary action for failure to comply.

In compliance with new Title IX regulations, Mount Holyoke College has also deemed all Officers and Deans of the College to be Officials with Authority (OWA). OWAs may also be contacted with concerns related to this policy or procedures or to give notice of a complaint. OWAs are mandated reporters and have an additional duty to report any potential violations of this policy to the Title IX team.

Confidential Resources

All of the resources listed in this section will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

Mount Holyoke College employees who are confidential will timely submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client or patient.

Confidential Resources on Campus



Confidential Resources Off-campus



Supportive Measures

The College will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged harassment, discrimination, and/or retaliation.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to Mount Holyoke’s education program or activity, including measures designed to protect the safety of all parties or the College’s educational environment, and/or deter harassment, discrimination, and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, the College will inform the Complainant, in writing, that they may file a formal complaint with the College either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

The College will maintain the privacy of the supportive measures, provided that privacy does not impair the College's ability to provide the supportive measures. The College will act to ensure as minimal an academic impact on the parties as possible. The College will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration support
- Student financial aid counseling
- Education to the community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass orders
- [Timely warnings \(http://ncsam.clerycenter.org/wp-content/uploads/NCSAM18_Timely-Warning-Guide.pdf\)](http://ncsam.clerycenter.org/wp-content/uploads/NCSAM18_Timely-Warning-Guide.pdf)
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Reported violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

Violence Risk Assessment and Emergency Removal

In many cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by a threat assessment team after receiving a report. A VRA can aid in critical and/or required determinations, including:

- Emergency removal of a Respondent on the basis of immediate threat to physical health/safety;
- Whether the Title IX Coordinator should pursue/sign a formal complaint absent a willing/able Complainant;
- Whether to put the investigation on the footing of incident and/or pattern and/or climate;
- To help identify potential predatory conduct;
- To help assess/identify grooming behaviors;
- Whether it is reasonable to try to resolve a complaint through Alternative Resolution, and what modality may be most successful;
- Whether to permit a voluntary withdrawal by the Respondent;
- Whether to impose transcript notation or communicate with a transfer Recipient about a Respondent;

- Assessment of appropriate sanctions/remedies (to be applied post-hearing); and/or
- Whether a Clery Act Timely Warning or Trespass Order needed.

Threat assessment is the process of evaluating the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A VRA is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

Where a VRA is required by the Title IX Coordinator, a Respondent refusing to cooperate may result in a charge of failure to comply within the appropriate student or employee conduct process.

A VRA is not an evaluation for an involuntary behavioral health hospitalization (Section XII in Massachusetts), nor is it a psychological or mental health assessment. A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

The College can act to remove a Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. Emergency Removal may be one outcome of a VRA.

In all cases in which an emergency removal is imposed, the student or employee will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested in a timely manner objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion or termination.

The College will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to: removing a student from a residence hall, temporarily re-assigning an employee, restricting a student's or employee's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, and suspending a student's

participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

Online Harassment and Misconduct

The policies of Mount Holyoke are written and interpreted broadly to include online and cyber manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on the College's education program and activities or use the College's networks, technology, or equipment.

While the College may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to the College, it may engage in a variety of means to address and mitigate the effects where possible.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via Snaps or other social media, unwelcome sexting, revenge porn, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the Mount Holyoke College community.

Disability Accommodations

Mount Holyoke College is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the College's resolution process.

Anyone needing such accommodations or support should contact the Office of AccessAbility Services for students or Human Resources for employees, who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

If any participant involved in any process under this Policy is already registered with Human Resources or the Office of AccessAbility and has previously been approved for accommodations, the Title IX Coordinator will work with the individual to apply those accommodations to this process where applicable at the parties request.

When a Complainant Does Not Wish to Proceed

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal laws.

The Title IX Coordinator has ultimate discretion over whether the College proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment.

The Title IX Coordinator's decision should be based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires the College to pursue formal action to protect the community. A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. Mount Holyoke may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and the College's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

When the College proceeds, the Complainant (or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant.

Note that the College's ability to remedy and respond to notice may be limited if the Complainant does not want the College to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing the College's obligation to protect its community.

In cases in which the Complainant requests no formal action and the circumstances allow the College to honor that request, the College will offer [Alternative Resolution \(/policies/alternative-resolution-alleged-violations-gender-based-and-sexual-misconduct\)](/policies/alternative-resolution-alleged-violations-gender-based-and-sexual-misconduct) options supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a Complainant has the right, and can expect, to have allegations taken seriously by the College, and to have the incidents investigated and properly resolved through these procedures.

Federal Timely Warning Obligations

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, the College must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

The College will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

False Allegations and Evidence

Deliberately false and/or malicious accusations under this policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence after being directed to preserve such evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under College policy.

Federal Statistical Reporting Obligations

Certain campus officials – those deemed Campus Security Authorities – have a duty to report the following for federal statistical reporting purposes (Clery Act):

- a. All “primary crimes,” which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
- b. Hate crimes, which include any bias motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;
- c. VAWA-based crimes, which include sexual assault, domestic violence, dating violence, and stalking; and
- d. Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private, but statistical information must be passed along to Public Safety and Service regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

Campus Security Authorities include: student affairs/student conduct staff, Public Safety and Service, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities.

Note: VAWA is the Violence Against Women Act, enacted in 1994 codified in part at 42 U.S.C. sections 13701 through 14040

Prohibited Conduct

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of discriminatory harassment. The College’s Gender-Based and Sexual Misconduct Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited harassment that are prohibited under Mount Holyoke College policy. When speech or conduct is protected by academic freedom, it will not be considered a violation of Mount Holyoke College policy, though supportive measures will be offered to those impacted.

Title IX Misconduct



Force, Coercion, Consent, and Incapacitation



Gender-Based and Sexual Misconduct



In addition to the forms of Title IX Misconduct defined in Section A, the College also prohibits Gender-Based and Sexual Misconduct as defined below. Allegations of these offenses will be resolved through the Formal Grievance Procedures Process B or Interim Alternative Resolution.

1. Sex or Gender-Based Harassment

Sex based harassment is unwelcome conduct of a sexual nature, as determined by a reasonable person that is severe, pervasive or objectively offensive that it effectively denies a person equal access to the College's education program or activity. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal or physical conduct of a sexual nature when one or both of the following conditions outlined below are present.

Gender-based harassment includes unwelcome conduct of verbal, nonverbal or physical aggression, intimidation or hostility, even if the acts do not involve conduct of a sexual nature, based on gender, gender identity, gender expression, sexual orientation or sex stereotyping that, as determined by a reasonable person that is severe, pervasive or objectively offensive that it effectively denies a person equal access to the

College's education program or activity when one or both of the following conditions below are present:

- Submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of the individual's employment, evaluation of academic work, participation or enrollment at the College. This is often referred to as "quid pro quo."
- Such conduct has the purpose or effect of unreasonably interfering with an individual's working, learning or living environment or limits the individual's ability to participate or benefit from the College's employment, education programs or activities by creating an intimidating, threatening, abusive, hostile, humiliating or sexually offensive environment using both a subjective and objective perspective. This is often referred to as a "hostile environment."

Sexual or gender-based harassment can take many forms. Reported conduct of this nature will be evaluated by considering the totality of the circumstances, including the nature, frequency, intensity, location, context and duration of the questioned behavior. Although repeated incidents generally create a stronger claim of sexual or gender-based harassment, a single incident, even if isolated, can create a hostile environment, particularly if the conduct is physical or sufficiently serious. A single incident of sexual assault, for example, may be sufficiently severe to constitute a hostile environment. In addition, conduct that was initially welcomed may develop into a form of sexual or gender-based harassment depending on the circumstances. The conduct does not have to be directed at a particular person to constitute sexual or gender-based harassment.

Examples of conduct that may constitute sexual or gender-based harassment include but are not limited to:

- Unwelcome sexual advances, whether they involve physical touching or not.
- Sexual innuendos, jokes, written or verbal references to sexual conduct, gossip regarding one's own sex life, comments on an individual's body, discussion or inquiry about an individual's sexual orientation, gender identity, activity, deficiencies or prowess.
- Displaying or circulating sexually suggestive objects, pictures, videos or cartoons, including via electronic communications.
- Threats or insinuations that a person's employment or wages, academic grade, promotional opportunities, classroom work assignments or other conditions of employment or academic life may be adversely affected by not submitting to sexual advances.

- Refusal to use or consistent misuse of someone's stated name or pronouns.
- Outing someone as transgender with the intent to cause harm.
- Bullying or hazing based on sex or gender:
 - Bullying is the repeated use by one or more people of a written, verbal or electronic expression or a physical act or gesture or any combination thereof, directed at another person that causes physical or emotional harm to the victim or damage to the victim's property, places the victim in reasonable fear of harm to self or damage of personal property, creates a hostile environment at the College for the victim, infringes on the rights of the victim at the College, or materially and substantially disrupts the education process or orderly operation of the College.
 - Hazing is any conduct or methods of initiation into student organizations, whether on public or private property, that willfully or recklessly endanger the physical or mental health of any person. Such conduct shall include whipping, beating, branding, forced calisthenics, exposure to weather, forced consumption of any food, liquor, beverage, drug or other substance, or any other brutal treatment or forced physical activity that is likely to adversely affect the physical health or safety of any person, or that subjects the person to extreme mental stress, including extended deprivation of sleep or rest or extended isolation.

2. Non Consensual Sexual Intercourse

Sexual intercourse is any penetration, however slight, with any object or body part performed by a person upon another person. Sexual intercourse includes vaginal penetration by a penis, object, tongue, or finger; anal penetration by a penis, object, tongue or finger; any contact no matter how slight, between the mouth of one person and the genitalia of another person.

3. Non Consensual Sexual Contact

Sexual contact includes an intentional sexual touching, however slight, with any object or body part without consent. Sexual contact includes intentional touching of the mouth, breast, buttocks, groin or genitals whether clothed or unclothed, or intentional touching of another with any of these body parts, making another touch themselves or another with or on any of these body parts.

See the full definition of consent under Force, Coercion, Consent, and Incapacitation above.

4. Relationship Violence

Relationship violence is violence committed by a person who is or has been in a social relationship of a romantic, intimate, domestic partner, spousal, sexual or dating nature with the person subject to that violence. Relationship violence is also referred to as intimate partner violence, dating violence or domestic violence. The existence of a romantic, intimate, domestic partner, spousal, sexual, domestic or dating relationship shall be determined based on the reporting party's characterization of the relationship and the following factors:

- Length of the relationship.
- Type of relationship.
- Frequency of interaction between the persons involved in the relationship.

Relationship violence includes but is not limited to:

- Physical or sexual violence.
- Emotional or psychological abuse.
- Economic abuse in the form of threats, assaults, property damage or other violence.

Relationship violence affects individuals of all genders, gender identities, gender expressions and sexual orientation and does not discriminate by racial, social or economic background. Relationship violence may include other forms of sexual misconduct under this policy.

Physical violence is the intentional use of physical force with the potential for causing harm, disability, injury or death. Emotional or psychological abuse is a persistent pattern or prolonged climate of domination or controlling behavior, often involving the use of verbal and nonverbal control over another person. Examples of emotional or psychological abuse may include:

- Name calling.
- Humiliation.
- Social isolation.
- Limiting access to transportation or money.
- Monitoring behavior.
- Threats of violence.
- Control of reproductive health or intentional deception about use of safer sex methods.
- Exploitation of vulnerabilities.
- Presenting false information with intent of making the person doubt their own memory or perception.

5. Sexual Exploitation defined as: taking non-consensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being exploited, and that conduct does not otherwise constitute sexual harassment under this policy. Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Invasion of sexual privacy.
- Taking pictures, video, or audio recording of a sexual nature of another when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent), including the making or posting of revenge pornography
- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually-transmitted disease (STD) or infection (STI), without informing the other person of the infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity
- Engaging in sex trafficking
- Creation, possession, or dissemination of child pornography

6. Sex or Gender-based Stalking

This Policy prohibits stalking on the basis of sex or gender. Stalking is the willful and malicious pattern of conduct or series of acts over a period of time that:

- Are directed at a specific person.
- Cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.
- Make a threat with the intent to place a person in imminent fear of death or bodily injury.

Stalking includes two or more acts of unwanted or harassing behavior, such as following a person; appearing at a person's home/residence hall, class or work; making or sending frequent unwanted phone calls, emails, text messages, etc.; continuing to contact a person after receiving requests not to; leaving written messages, objects or unwanted gifts; vandalizing a person's property; monitoring or tracking a person's activity; using third parties to monitor or track behavior or engage in other unwanted contact; and threatening, intimidating or intrusive behavior.

Stalking includes cyber stalking which is the use of the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact to pursue, monitor, harass, or make unwelcome contact with another person.

7. Sex and Gender-Based Discrimination

Sex and Gender-Based Discrimination is conduct that is based upon an individual's sex, sexual orientation, gender identity, gender expression, or pregnancy that:

- Adversely affects a term or condition of an individual's employment, education, living environment, or participation in a College program or activity; and/or
- Is used as the basis for or a factor in decisions affecting that individual's employment, education, living environment, or participation in a program or activity.
- Some examples of conduct that may constitute prohibited Sex or Gender Based Discrimination may include, but are not limited to:
- Denying a person access to an educational or employment program based on that person's sex, sexual orientation, gender identity, gender expression, or pregnancy;
- Denying raises, benefits, promotions, and/or other conditions of employment on the basis of a person's sex, sexual orientation, gender identity, gender expression, or pregnancy; and/or
- Preventing any person from using College facilities or services because of that person's sex, sexual orientation, gender identity, gender expression, or pregnancy.

The same definitions of Force, Coercion, Consent, and Incapacitation as defined above apply.

Retaliation

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. The College prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

It is prohibited for the College or any member of the Mount Holyoke community to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, 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 and procedure.

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 complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes 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 and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

Sanctions

Below is a list of possible sanctions. Sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities. More information about factors to consider when sanctioning can be found in the Formal Grievance Procedure.

Student Sanctions



Employee Sanctions



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