



## 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) (<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) (<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



The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the Commonwealth of Massachusetts regard Sexual Harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice.

All conduct alleged using the definitions below will be addressed through the Formal Grievance Procedures Process A or Alternative Resolution.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex that satisfies one or more of the following:

1. Quid Pro Quo:

- a. an employee of the College,
- b. conditions the provision of an aid, benefit, or service of the College,
- c. on an individual's participation in unwelcome sexual conduct; and/or

2. Sexual Harassment:

- a. unwelcome conduct,
- b. determined by a reasonable person,
- c. to be so severe, and
- d. pervasive, and,
- e. objectively offensive,
- f. that it effectively denies a person equal access to the College's education program or activity.

3. Sexual assault, defined as:

a. Sex Offenses, Forcible:

- i. Any sexual act directed against another person,
- ii. without the consent of the Complainant,
- iii. including instances in which the Complainant is incapable of giving consent. (Note: This definition set is not taken from SRS/NIBRS verbatim. ATIXA has substituted Complainant for "victim," has removed references to his/her throughout, has defined "private body parts," has removed the confusing and unnecessary term "unlawfully," and has inserted language clarifying that the College interprets "against the person's will" to mean "non-consensually." These are liberties ATIXA thinks are important to take with respect to the federal definitions. Mount Holyoke has adopted these changes.)

b. Forcible Rape:

- i. Penetration,
- ii. no matter how slight,
- iii. of the vagina or anus with any body part or object, or
- iv. oral penetration by a sex organ of another person,
- v. without the consent of the Complainant.

## c. Forcible Sodomy:

- i. Oral or anal sexual intercourse with another person,
- ii. forcibly,
- iii. and/or against that person's will (non-consensually), or
- iv. not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age (per state law) or because of temporary or permanent mental or physical incapacity.

## d. Sexual Assault with an Object:

- i. The use of an object or instrument to penetrate,
- ii. however slightly,
- iii. the genital or anal opening of the body of another person,
- iv. forcibly,
- v. and/or against that person's will (non-consensually),
- vi. or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

## e. Forcible Fondling:

- i. The touching of the private body parts of another person (buttocks, groin, breasts),
- ii. for the purpose of sexual gratification,
- iii. forcibly,
- iv. and/or against that person's will (non-consensually),
- v. or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

## f. Sex Offenses, Non-forcible:

## i. Incest:

1. Non-forcible sexual intercourse,
2. between persons who are related to each other,
3. within the degrees wherein marriage is prohibited by Massachusetts law.

## ii. Statutory Rape:

1. Non-forcible sexual intercourse,
2. with a person who is under the statutory age of consent of 16.

## 4. Dating Violence, defined as:

- a. violence,
- b. on the basis of sex,

- c. committed by a person,
- d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
  - i. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
  - ii. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
  - iii. Dating violence does not include acts covered under the definition of domestic violence.

5. Domestic Violence, defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a current or former spouse or intimate partner of the Complainant,
- d. by a person with whom the Complainant shares a child in common, or
- e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Massachusetts or
- g. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Massachusetts.

\*To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

6. Stalking, defined as:

- a. engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at a specific person, that
  - i. would cause a reasonable person to fear for the person's safety, or
  - ii. the safety of others; or
  - iii. Suffer substantial emotional distress.

For the purposes of this definition—

1. Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
2. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
3. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

The College also has a Policy on [Staff Family and Other Close Relationships \(https://my.mtholyoke.edu/HumanResources/Documents/Staff%20Family%20and%20Other%20Close%20Relationships%202018-10-01.pdf\)](https://my.mtholyoke.edu/HumanResources/Documents/Staff%20Family%20and%20Other%20Close%20Relationships%202018-10-01.pdf) as well as [Staff-Student Romantic and Sexual Relationships \(https://my.mtholyoke.edu/HumanResources/Documents/Staff%20Student%20Romantic%20and%20Sexual%20Relationships%202018-10-01.pdf\)](https://my.mtholyoke.edu/HumanResources/Documents/Staff%20Student%20Romantic%20and%20Sexual%20Relationships%202018-10-01.pdf).

Mount Holyoke College reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy. A list of sanction options can be found in the Section titled Sanctions.

## Force, Coercion, Consent, and Incapacitation

## Gender-Based and Sexual Misconduct

### 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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