MERCER UNIVERSITY
SEXUAL MISCONDUCT AND RELATIONSHIP VIOLENCE POLICY
(Includes sexual harassment, sexual assault, sexual exploitation, stalking, intimate partner violence, and gender-based harassment)
(Updated February 2018)

INTRODUCTION
As required by Title IX, Mercer University is committed to maintaining an environment free from discrimination on the basis of sex and/or gender and where the dignity and worth of all members and visitors of the University community are respected. Sex discrimination, which includes, but is not limited to, sexual harassment, sexual assault, intimate partner violence (IPV), stalking, and gender-based harassment, harms the environment the University seeks to maintain and is unequivocally prohibited. Mercer University has developed its policy on Sexual Misconduct and Relationship Violence (SMRV) in accordance with Title IX of the Education Amendments and the Violence Against Women Act to reaffirm the University’s commitment to address sexual misconduct and relationship violence and take steps to prevent its reoccurrence and remedy its effects. This policy explains the rights and options for employees, students, and visitors with reports regarding sexual misconduct and relationship violence, as defined below, and provides a grievance procedure for handling reports. Employee reports regarding other forms of sex discrimination will be handled in accordance with the grievance procedures outlined in the faculty and staff handbooks (Faculty Handbook, Section 2.10 and Non Faculty Handbook, Section 4/Grievance Procedures).

This policy applies to all University students and employees, campus visitors, and employees of third parties doing business with the University, regardless of sexual orientation, gender identity, or location. All members of the University community are expected to conduct themselves in a manner that does not negatively affect an individual’s school or work experience or the overall school environment, whether on University premises or at any off-campus location. University administrators and supervisors have the responsibility for implementing steps designed to prevent and eliminate sexual misconduct and relationship violence within the areas they oversee.

Under Title IX, individuals reporting an allegation related to sexual misconduct and/or relationship violence have the right to timely resolution; to have the University conduct a prompt, fair, and impartial investigation; and to have interim steps taken to ensure the safety and wellbeing of the individuals involved and the University community. These procedures will be conducted by officials who receive training on issues related to sexual harassment, sexual assault, sexual exploitation, intimate partner violence, and gender-based harassment, as well as how to conduct a hearing process that protects safety, promotes accountability and ensures fairness. The University will communicate regular investigatory updates to the reporting party and the person against whom the allegation or report of sexual misconduct or relationship violence is made. If a responding party is found to have violated this policy, serious sanctions will be used to prevent the reoccurrence of sexual misconduct and relationship violence and address its effects. Mercer University, Campus Sexual Violence Elimination Act (Campus SaVE) and Title IX prohibit retaliation (See Retaliation), and the University will take reasonably calculated steps to prevent retaliation, and will evaluate responsive actions, as necessary, for any retaliatory acts.

PRESERVING EVIDENCE
A person who has experienced sexual misconduct and/or relationship violence is encouraged to make every effort to preserve evidence, even if he or she has not made a decision regarding whether to report the violation. A medical exam, preferably by a Certified Forensic Nurse (CFN) or Sexual Assault Nurse Examiner (SANE), is an important way for a health provider to properly collect and preserve evidence. In order to assist with this process, the reporting party should not: bathe or shower, use the restroom, change clothes, comb hair, clean up the area where the incident occurred, or move anything the alleged perpetrator may have touched. While the emergency room and/or a Sexual Assault Nurse is obligated to report the alleged assault to police, the reporting party may choose whether to press charges.

CONFIDENTIALITY, PRIVACY AND REPORTING
If an individual has knowledge of or has experienced sexual violence, it is particularly important, for the protection of both the reporting party and the University community, that the incident be reported immediately.
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 – meaning they are not required to report actual or suspected discrimination or harassment to appropriate University officials - thereby offering options without any obligation to inform University officials.

**Confidential Reporting**
Staff at Counseling Services on all campuses and the University Minister’s office are considered confidential reporters when acting in the capacity of their role as a counselor.

**Mandatory Reporters – Responsible Employees**
All University employees (faculty, staff, and administrators), and resident advisors are expected to immediately report actual or suspected discrimination or harassment to appropriate University officials, though there are some limited exceptions (see above). Conversations are kept as private as possible, but information about alleged incidents of sexual misconduct and relationship violence must be shared with the Title IX Coordinator. Additionally, information may be shared with relevant administrators to ensure the safety of the campus community.

If University administrators, faculty or staff know, or reasonably should have known, that sexual misconduct and/or relationship violence has occurred, receive a report or obtain other information indicating possible sexual misconduct and/or relationship violence, they must take immediate steps to ensure the problem is addressed, even if the problem or alleged problem is not within their area of oversight. They do so by reporting the behavior of concern to the appropriate authority charged with investigating such reports.

Mercer Police can assist the reporting party in evaluating criminal action as needed and/or notifying the appropriate law enforcement authorities, if the individual so chooses. Reporting the incident to the police does not mean the reporting party must press charges, but it does help assure that the individual receives assistance in deciding how to proceed with criminal charges and preserving and collecting evidence necessary for criminal prosecution. The sooner an incident is reported, the easier it is to preserve and collect necessary evidence. (See Preserving Evidence above).

The University takes requests for confidentiality seriously, and will evaluate a Reporting Party’s request for confidentiality in the context of University’s responsibility to provide a safe and nondiscriminatory environment for all students, including the Reporting Party. However, should University officials receive credible reports that a Responding Party has allegedly perpetrated several acts of sexual violence against different students, and/or that multiple reports are emerging from a particular location or student organization, that pattern of conduct may trigger an investigation into the conduct, and may be expanded to include whether other students have been subjected to sexual violence by that Responding Party or organization. In such cases, as appropriate, the University will take affirmative steps during the investigation to inform the Responding Party that the University made the decision to go forward despite being requested not to do so by the Reporting Party.

**TITLE IX COORDINATOR**
The University’s Title IX Coordinator oversees compliance with all aspects of the sexual misconduct and relationship violence policy. The Coordinator reports directly to the Vice President for Audit and Compliance. Questions about this policy should be directed to the Title IX Coordinator. Individuals wanting to make a report relating to discrimination or harassment and/or making inquiries concerning the application of Title IX at Mercer University may contact the Title IX Coordinator:

Melissa M. Graham, M.S.
Title IX Coordinator
315 Newton Chapel (Macon Campus)
1501 Mercer University Dr., Macon, GA 31207
478-301-2788
Graham_mm@mercer.edu
TitleIX@mercer.edu
Individuals reporting an incident regarding SMRV where the Title IX Coordinator is identified as the responding party may contact:

James Calhoun  
Vice President for Audit and Compliance  
310 Newton Chapel  
1501 Mercer University Dr., Macon, GA  31207  
478-301-2300  
Calhoun_j@mercer.edu

Individuals experiencing harassment or discrimination always have the right to also file a formal grievance with government authorities:

**Headquarters:**  
Office for Civil Rights  
U.S. Department of Health and Human Services  
200 Independence Avenue, S.W.  
Room 509F HHH Bldg.  
Washington, D.C. 20201  
OCR@ed.gov  
http://www.ed.gov/ocr

**Regional Office:**  
Office for Civil Rights  
U.S. Department of Health and Human Services  
Sam Nunn Atlanta Federal Center, Suite 16T70  
61 Forsyth Street, S.W.  
Atlanta, GA 30303-8909  
(800) 368-1019

**UNIVERSITY DEFINITION OF OFFENSES**

1. **Sexual Harassment:**  
   Unwelcome sex-based and/or gender-based verbal, non-verbal, written, online, and/or physical conduct of a sexual nature that is:  
   - sufficiently severe, or  
   - persistent or pervasive, and  
   - objectively offensive that it:  

   Unreasonably interferes with, denies or limits someone’s ability to participate in or benefit from the University’s educational, employment, social, and/or residential program from both a subjective (the reporting party) and objective (reasonable person) point of view.

   Sexual harassment can occur when submission to the conduct is made a term or condition of employment, status in a course, program, or activity; or submission to or rejection of such conduct is used as the basis for an academic, employment or placement decision affecting the individual. In these cases (quid pro quo) there is generally a power differential. Sexual harassment can also occur when the conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or educational experience or creates an intimidating, hostile or offensive environment for working or learning (hostile environment).

   Sexual harassment can occur regardless of the relationship, job title or respective sex and/or gender of the parties. Same-sex harassment violates this policy, as does harassment by a student of a faculty member or harassment by a subordinate employee of a supervisor.

2. **Sexual Assault (defined as follows):**  
   A. **Non-Consensual Sexual Intercourse:**  
   - any sexual intercourse  
   - however slight,  
   - of any part of one person’s body with any part of another person’s body or an object,  
   - that is without consent and/or by force.
Intercourse includes:
- vaginal penetration by a penis, object, tongue or finger; anal penetration by a penis, object, tongue or finger; or oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact (by one person upon another person regardless of sex or gender).

B. Non-Consensual Sexual Contact is:
- any intentional sexual touching,
- however slight,
- of any part of one person’s body with any part of another person’s body or an object,
- that is without consent and/or by force,

Sexual contact includes:
- intentional contact includes but is not limited to the breasts, buttocks, groin, upper thigh, or genitals, or touching another with any of these body parts, or making one person sexually touch another person or themselves with or on any of these body parts; or
- any intentional bodily contact in a sexual manner (by one person upon another person regardless of sex or gender).

3. Sexual Exploitation:
Taking non-consensual or abusive sexual advantage of another for one’s own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses.

Examples of sexual exploitation include, but are not limited to:
- invasion of sexual privacy;
- prostituting another individual;
- non-consensual observation, either by direct observation or digital, video or audio recording of nudity or sexual activity.
- unauthorized sharing or distribution of digital, video or audio recording of nudity or sexual activity;
- knowingly exposing someone to or transmitting an STI (Sexually Transmitted Infection) or HIV (Human Immunodeficiency Virus) to another person;
- intentionally or recklessly exposing one’s genitals in non-consensual circumstances and/or inducing another to expose that individual’s genitals.

4. Stalking:
- a course and/or pattern of conduct
- directed at a specific person
- that is unwelcome, and
- would cause a reasonable person to fear for that individual’s or others’ safety, or to suffer substantial emotional distress.

Such conduct includes two or more acts by which the stalker directly, indirectly, or through third parties follows, monitors, observes, surveils, threatens, or communicates about a person or interferes with his or her property.

5. Intimate Partner Violence (IPV)
Any physical violence or psychological aggression occurring between intimate partners. Intimate partners include current or former spouses, a person whom the reporting party shares a child with, boyfriends or girlfriends, casual dating partners, romantic partners, and/or sexual partners. IPV can occur between heterosexual or same-sex couples and does not require sexual intimacy. IPV can manifest through both physical violence and/or psychological aggression and can vary in frequency and severity.

A. Physical violence is the intentional use of physical force with the potential for causing death, disability, injury, or harm. Physical violence includes, but is not limited to, scratching; pushing; shoving; throwing;
grabbing; biting; strangulation; shaking; aggressive hair pulling; slapping; punching; hitting; burning; use of a weapon; and use of restraints or one’s body, size, or strength against another person. Physical violence also includes coercing other people to commit any of the above acts.

B. Psychological Aggression is the use of verbal and non-verbal communication which impacts another person mentally or emotionally, and/or to exert control over another person. Psychological aggression can include expressive aggression (e.g., name-calling, humiliating); coercive control (e.g., limiting access to transportation, money, friends, and family; excessive monitoring of whereabouts); threats of physical or sexual violence; control of reproductive or sexual health (e.g., refusal to use birth control; coerced pregnancy termination); exploitation of vulnerability (e.g., immigration status, disability); and presenting false information to the victim with the intent of making them doubt their own memory or perception (e.g., mind games, manipulation).

6. Gender-based Harassment: Acts of verbal, nonverbal, graphic, or physical aggression, intimidation, or hostile conduct based on sex, sex-stereotyping, sexual orientation, gender identity or expression, but not involving conduct of a sexual nature, when a reasonable person would find such conduct:
   - sufficiently severe, or
   - persistent or pervasive, and
   - objectively offensive that it:
     - unreasonably interferes with, denies or limits someone’s ability to participate in or benefit from the University’s educational, employment, social, and/or residential program from both a subjective (the reporting party) and objective (reasonable person) point of view.

Exclusion from an activity based on sexual orientation or gender identity or persistent disparagement of a person based on a perceived lack of stereotypical masculinity or femininity may also violate this policy.

7. Retaliation: Any adverse action taken in response to an individual who has filed a report, testified, assisted, or participated in any manner in an investigation or proceeding under any University Policy (including the academic honor code, student code of conduct, or Sexual Misconduct and Relationship Policy). Retaliation includes intimidation, threats, harassment, or any type of adverse action taken against an individual in the attempt to deter them from addressing, reporting, or testifying on adverse conduct. This includes action taken against a bystander who intervened to stop or attempt to stop discrimination, harassment, or sexual misconduct.

ADDITIONAL APPLICABLE DEFINITIONS

Reporting Party: The person directly affected by an allegation or report of sexual misconduct or relationship violence.

Responding Party: The person against whom the allegation or report of sexual misconduct or relationship violence is made.

Third Party Reporter: The person who reports an allegation of sexual misconduct or relationship violence on behalf of the Reporting Party.

Reasonable Person Viewpoint: OCR’s standards require that the conduct be evaluated from the perspective of a reasonable person in the same position, considering all the circumstances.

Consent: Clear, knowing, and voluntary words or actions that give permission for specific sexual activity. It is active, not passive.
   - Silence, in and of itself, cannot be interpreted as consent.
   - Consent can be given by words or actions, as long as those words or actions create mutually understandable, clear permission regarding willingness to engage in sexual activity.
Consent to any one form or condition of sexual activity cannot automatically imply consent to any other forms or conditions of sexual activity.

Current and/or previous relationships or prior consent cannot imply consent to future sexual acts.

Once given, consent can be withdrawn at any time.

Coercion, force, or threat of either, invalidates consent (see Force).

In order to give effective consent, one must be of legal age, which is 16 years in Georgia.

**Incapacitation:** A state in which someone cannot make rational, reasonable decisions because he or she lacks the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction).

- Sexual activity with someone known to be – or based on the circumstances, should reasonably have been known to be – incapacitated constitutes a violation of this policy.
- Incapacitation can occur mentally or physically, from developmental disability, by alcohol or other drug use, or blackout.
- This policy also covers a person whose incapacity results from mental disability, sleep, unconsciousness, or involuntary physical restraint.

**Force:** the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcomes free will or resistance or produces consent.

- Coercion is unreasonable pressure for sexual activity.
- Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.
- There is no requirement that a party resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual.

**OTHER REPORTING OPTIONS**
Reports of sexual misconduct and relationship violence may be made to any of the following:

**Atlanta Campus:**
- Counseling and Psychological Services (678) 547-6060 (Confidential)
- Mercer Police (678) 547-6358
- Title IX Coordinator (478) 301-2788
- Dean of Students (678) 547-6821
- Associate Vice President for Human Resources (478) 301-2005
- Residence Life Staff (678) 547-6823

**Columbus Campus:**
- Columbus Police Department (706) 653-3400*
- Title IX Coordinator (478) 301-2788
- Dean, Columbus Campus (706) 223-5119
- Associate Vice President for Human Resources (478) 301-2005

**Macon Campus:**
- Counseling and Psychological Services (478) 301-2862 (Confidential)
- Mercer Police (478) 301-2970
- Title IX Coordinator (478) 301-2788
- Vice President and Dean of Students (478) 301-2685
- Associate Vice President for Human Resources (478) 301-2005
- Law School Dean of Students (478) 301-2602
- Medical School Dean of Students (478) 301-5570
Residence Life Staff (478) 301-2687

Regional Academic Centers:
Henry, Douglas, and Newnan students call Atlanta Mercer Police (678) 547-6358
Title IX Coordinator (478) 301-2788
Associate Vice President for Human Resources (478) 301-2005
Director of Operations for the Centers (678) 547-6370
Center Coordinator for that location

Savannah Campus:
Chatham County Police Department (912) 652-6500*
Title IX Coordinator (478) 301-2788
Dean, Savannah Campus (912) 721-8144
Associate Dean for Student Affairs, Savannah Campus (912) 721-8144
Associate Vice President for Human Resources (478) 301-2005
Office of Faculty Affairs, Savannah Campus (912) 721-8144

*As these law enforcement agencies are not affiliated with Mercer University, a Reporting Party must either report the incident to one of the University agencies listed above or request that the police report be forwarded directly to Mercer Police to ensure proper review by the University.

SERVICES AND RESOURCES
The following services and resources are available for both the Reporting Party and Responding Party on-campus and in the local community:

Atlanta (DeKalb County)
- Counseling and Psychological Services, Atlanta: (678) 547-6060 (Confidential)
- Day League Crisis Center, Decatur: (404) 377-1428 (Crisis Line)
  website: http://www.dayleague.org
  email: info@dayleague.org
  Counties: DeKalb, Newton, Rockdale
- DeKalb Medical Center (SANE Nurse available): (404) 501-1000
  2701 N. Decatur Rd., Decatur
- DeKalb Medical Hillandale: (404) 501-8000
  2801 DeKalb Medical Parkway, Lithonia
- DeKalb County District Attorney’s Office: (404) 371-2561
- Stone Mountain Circuit Public Defender Office: (404) 371-2222

Columbus (Muscogee)
- Counseling and Psychological Services, Macon: (478) 301-2862 (Confidential)
- Sexual Assault Support Center, Inc., Columbus: (706) 571-6010 (Crisis Line)
  email: crrcenter@aol.com
- Columbus Regional Midtown Medical Center (SANE Nurse available): (706) 571-1000
  710 Center Street, Columbus
  Counties: Chattahoochee, Harris, Marion, Muscogee, Talbot, Taylor
- Columbus District Attorney’s Office: (706) 653-4336
- Chattahoochee Circuit Public Defender Office: (706) 653-4301

Douglasville (Douglas County)
- Counseling and Psychological Services, Atlanta: (678) 547-6060 (Confidential)
- Douglas County Task Force (SANE Program): (678) 715-1196 (Crisis Line)
  website: http://www.douglastaskforce.com
  email: dctaskforce@yahoo.com
  Counties: Douglas
Wellstar Douglas Hospital (SANE Nurse available if called ahead of time): (770) 949-1500
8954 Hospital Dr., Douglasville
Douglas County District Attorney's Office: (770) 920-7292
Douglas County Public Defender's Office: (770) 949-1096

McDonough (Henry County)
- Counseling and Psychological Services, Atlanta: (678) 547-6060 (Confidential)
- Southern Crescent Sexual Assault Center, Jonesboro
  (All sexual assault examinations are done by a SANE nurse here instead of at the hospital)
  (770) 477-2177 (Crisis Line)
  website: http://scsacinc.wix.com/scsac
  email: support@scsac.org
  Counties: Butts, Clayton, Fayette, Henry, Lamar, Pike, Spalding
- Henry County District Attorney's Office: (770) 288-6400
- Flint Circuit Public Defender Office: (770) 288-7460

Macon (Bibb County)
- Counseling and Psychological Services, Macon: (478) 301-2862 (Confidential)
- Crisis Line and Safe House of Central Georgia, Inc., (478) 745-9292 (Crisis Line)
  website: http://cl-sh.org
  Counties: Bibb, Crawford
- Navicent Health Emergency Room: (478) 633-1000
  777 Hemlock Street, Macon
- Coliseum Hospital Emergency Room: (478) 746-4646
  350 Hospital Drive, Macon
- Bibb County District Attorney's Office: (478) 621-6427
- Macon Circuit Public Defender Office: (478) 621-5950

Newnan (Coweta)
- Counseling and Psychological Services, Atlanta: (678) 547-6060 (Confidential)
- West Georgia Rape Crisis Center, Carrollton: (770) 834-7273 (Crisis Line)
  website: www.westga.edu/~crcc/
  email: crcc@westga.edu
  Counties: Carroll, Coweta, Haralson, Heard
- Piedmont Newnan Hospital: (770) 400-1000
  745 Poplar Rd., Newnan
- Coweta County District Attorney’s Office: (770) 254-7300
- Coweta Circuit Public Defender Office: (770) 830-1323

Savannah (Chatham County)
- Counseling and Psychological Services, Macon: (478) 301-2862 (Confidential)
- Rape Crisis Center of the Coastal Empire, Inc., Savannah:
  (912) 233-7273 (Crisis Line) or (888) 241-7273 (Tollfree)
  website: http://www.rccsav.org/
  email: advocate@rccsav.org
  Counties: Bryan, Chatham, Effingham, Evans, Liberty, Long, Tattnall
- Candler Hospital (SANE Nurse available), (912) 819-6000
  5353 Reynolds St., Savannah
- Chatham County District Attorney's Office: (478) 621-6427
- Eastern Circuit Public Defender Office: (912) 447-4901

The following resources are also available to the Reporting Party and Responding Party:
- National Sexual Assault Hotline (800) 656-4673
• National Domestic Violence Hotline (800) 799-7233
• Georgia Crisis & Access Line (800) 715-4225
• Financial Planning Assistance, AVP of Financial Planning (478) 301-2226
• Immigration and Visa Assistance, Director of International Programs (678) 547-6151

TIMELY WARNING
Community members, students, faculty, staff and guests are encouraged to report all crimes and public safety related incidents to Mercer Police in an accurate and timely manner. Timely warnings will be issued when incidents on or near the campus, in the judgment of the Chief of Mercer Police, constitute an imminent or continuing threat to the University community. Timely warnings will not contain information regarding the Reporting Party’s identity. The warning will be issued both through the Mercer email system and text messaging system to students, faculty and staff.

SEXUAL MISCONDUCT AND RELATIONSHIP VIOLENCE GRIEVANCE PROCEDURES

Step 1: A Report is Made
Once an individual Reporting Party reports an alleged incident of Sexual Misconduct and Relationship Violence (SMRV) to a University employee, that University employee must immediately notify his or her supervisor, and/or contact the Associate Vice President for Human Resources or designee (herein after referred to simply as the AVP-HR) if the accused individual (Responding Party) is an employee, or the Dean of Students or designee (herein after referred to simply as the Dean of Students) if the accused individual (Responding Party) is a student. The Dean of Students or the AVP-HR will then notify the Title IX Coordinator of the report. The report may also be filed directly with the Title IX Coordinator. If both the Reporting Party and the Responding Party are employees, grievance procedures are outlined in the Non-Faculty Employee Handbook and in Section 2.10 of the University Faculty Handbook.

The Reporting Party will be encouraged to seek out immediate medical care, offered counseling support, and provided the opportunity to file an official report with either campus or local police. However, the Reporting Party has the right to decline to notify the police at this time. Whether the Reporting Party wishes to speak with the police or not, an intake meeting with the Title IX Coordinator, AVP-HR or the Dean of Students will be scheduled as soon as possible. If a Reporting Party is under the age of 18, the circumstances surrounding the report will be evaluated in order to determine whether contact will be made with the parents, legal guardian, and/or emergency contact person.

Step 2: Intake Meeting
Meeting with the Reporting Party. Upon receipt of notice of any allegation of SMRV, the Title IX Coordinator, Dean of Students and/or AVP-HR will schedule an individual intake meeting with the Reporting Party in order to provide to the Reporting Party a general overview of this policy. This intake meeting should include the following:

• The Reporting Party is advised in writing of his or her rights and options under Title IX and offered the opportunity to report the case to law enforcement (with assistance from the University). The Reporting Party is notified that by doing so, the Reporting Party is not obligated to pursue charges against the Responding Party.

• The Reporting Party is advised of the importance of preserving and providing evidence.

• A discussion of the interim measures that can be taken to protect the Reporting Party from contact and/or potential retaliation from the Responding Party or any related organization (see Interim Measures) including his or her right to seek a protective order, a restraining order, a no contact order, or similar lawful order from a criminal, civil or tribal court, and the University’s obligation to help enforce any protective order.

• The Reporting Party is advised of his or her right to have the case investigated by a trained Title IX investigator, and of the University’s obligation to actively investigate the report to the extent made possible by the Reporting Party (see Investigation).
• Upon completion of the investigation, a student Reporting Party is advised of his or her option to have the case evaluated for possible informal resolution or possible student judiciary charges against the Responding Party (if Responding Party is a student) or to take no further action. (See Resolution below).

• If the Reporting Party does not wish to share any information involving the case at this time, a follow-up meeting should be scheduled after the Reporting Party has had adequate time to process the intake meeting information and their options by the Title IX Coordinator, Dean of Students and/or AVP-HR to obtain written verification of this decision.

**Meeting with Responding Party.** As appropriate, the Title IX Coordinator, Dean of Students and/or AVP-HR will schedule an initial intake meeting with the Responding Party to provide a general overview of this policy. This intake meeting should include the following:

- The Responding Party is provided with notice that a report has been made
- The Responding Party is advised in writing of rights and options under Title IX.
- The Responding Party is advised of the importance of preserving and providing evidence.
- A discussion of the interim measures that can be taken/have been implemented to protect the Reporting Party from contact and/or potential retaliation from the Responding Party or any related organization (see Interim Measures) including the right to seek a protective order, a restraining order, a no contact order, or similar lawful order from a criminal, civil or tribal court, and the University’s obligation to help enforce any protective order.
- The Responding Party is provided with a list of on and off-campus resources services.

**Interim Measures**
The University will take appropriate interim measures as is reasonably practical under the circumstances to support, protect, minimize contact with and/or potential retaliation by the Responding Party or related organizations toward individuals making a report of alleged sexual harassment, sexual assault, sexual exploitation, stalking, and intimate partner violence. These actions will be assessed and/or coordinated by the Title IX Coordinator, Student Affairs, and/or Human Resources professional. Interim measures may include further protective action deemed appropriate concerning the interaction of the individuals, including, but not limited to, directing appropriate University officials to alter the student’s academic schedule, University housing, and/or University employment arrangements.

Mercer Police, the Title IX Coordinator, Dean of Students and/or AVP-HR may impose a "no-contact" order, which typically will include a directive that the parties refrain from having any contact with one another, directly or through third parties, whether in person or via electronic means, pending the investigation and, if applicable, the hearing. When taking steps to separate the Reporting Party and the Responding Party, the Title IX Coordinator, Dean of Students, and/or AVP-HR will seek to minimize unnecessary or unreasonable burdens on either party. Note, however, that this obligation does not preclude the University from evaluating and implementing an interim suspension, if deemed warranted.

**Step 3: The Investigation**
If the University determines there is sufficient information upon which to conduct an investigation, the Title IX Coordinator, Dean of Students, and/or AVP-HR will notify both parties on the status of proceeding with the investigation. Upon following up with the Reporting Party and Responding Party, the Title IX Coordinator, and/or the Dean of Students will reiterate the University’s obligation under Title IX and explain the student investigative options being utilized.

Trained Title IX investigators will be assigned to the case. The Title IX Coordinator will notify both parties of the investigation and the names of the investigators. The investigators will conduct a full review of the allegations, including interviewing Reporting Party, Responding Party, and available relevant witnesses. If the Reporting Party wishes to have the case investigated without his/her identity disclosed, the Title IX Coordinator, Dean of Students,
and/or AVP-HR will discuss the parameters of the investigation and limits with the Reporting Party before proceeding. The Title IX Coordinator will provide direction and oversight to the investigators to comply with this request. The Title IX Coordinator will retain authority to make decisions regarding the parameters of the investigation. The investigator(s) will compile a summary presented in a written report (Investigative Report) to the Title IX Coordinator. The Title IX Coordinator will share the report with the Dean of Students for student cases, and the Associate VP for Human Resources for cases involving employees. Investigations will be conducted in a timely manner designed to provide all parties with an impartial resolution. However, the length of the process may vary depending on the complexity of the case, the number of witnesses, and extenuating circumstances. The Title IX Coordinator will maintain a copy of the final report.

**Investigative Reports**: An official record of the investigation (Investigative Report) shall be made by the presiding Title IX investigators for internal University use only. Interviews by investigators will not be recorded by anyone other than the University. Prior to the completion of the investigation, any person directly participating in the investigation (i.e. Responding Party, Reporting Party, and/or witnesses) may request to and review his/her own (and only his/her own) statements and/or testimony and offer clarifications or additional information as needed. Once the investigation is completed, the Responding and Reporting Parties will be provided an opportunity to review a copy of the Investigative Report, however, identifying information of students and employees may be redacted to protect students’ FERPA rights and employee confidentiality. The Reporting and Responding parties will not be permitted to make a copy of the investigative report in any form (photograph, photocopy, electronic copy, written copy, etc.).

**Law Enforcement Related Investigation.** The Reporting Party has the option to proceed with a law enforcement investigation in conjunction with the non-law enforcement investigation at any point in the process.

**Step 4: Resolution**

Based on the information available from the Title IX investigation, the Dean of Students in consultation with the Title IX Coordinator for student cases, and the AVP for Human Resources for employee cases in consultation with the Title IX Coordinator, will review the summary and make a decision on how to proceed. A request may be made by the Title IX Coordinator, Dean of Students or AVP-HR for further information or clarification by the trained Title IX investigator before making this determination. This may include additional interviews or statements. The following options are available at this stage:

**A. No Further Action.** Based on the entirety of the circumstances, the University may choose to take no further action.

If no action is taken, both the Reporting Party and Responding Party (except in cases where the Responding Party is unknown, is not covered by this policy, or the Reporting Party has asked to remain anonymous) will be notified in writing and a copy of the investigation and documentation supporting this decision will be sent to the Title IX Coordinator.

**B. Informal Resolution.** A Reporting Party who wishes to file a report, but does not wish to pursue Formal Resolution, may request a less formal proceeding, known as "Informal Resolution." Whether this request for an informal instead of formal resolution is granted is at the discretion of the Dean of Students/AVP-HR in consultation with the Title IX Coordinator. Mediation is not an option for SMRV cases. Informal Resolution will be handled by the Dean of Students for student cases, and by the AVP-HR for employee cases, and may include a formal warning about the Responding Party’s behavior, stipulations on contact, educational activities, or other actions as determined by the Dean of Students/AVP-HR. Informal Resolutions will be held as part of the student’s or employee’s disciplinary record, subject to student and employee confidentiality laws.

Any Informal Resolution must be reviewed by the Title IX Coordinator before being finalized. The terms of the Informal Resolution will be communicated to both the Reporting Party and the Responding Party in writing. In cases where both the Reporting Party and Responding Party are students, if either party does not agree with the outcome and/or stipulations during the Informal Resolution process, the case may be referred for review under the Formal Resolution process.
C. Formal Resolution. A review is conducted by the appropriate disciplinary process applicable to the Responding Party(s) (student or employee):

For Employees: Within 30 days of receipt of the report of the investigation, the AVP-HR will implement appropriate disciplinary action, up to and including termination, for the employee. The AVP-HR retains the right to request additional information deemed necessary to clarify any questions or issues, and to determine responsibility. The decision of the AVP-HR will be shared simultaneously with both the Reporting Party and Responding Party. A copy will be sent to the Title IX Coordinator for review. If dismissal of a faculty member is recommended by the AVP-HR, faculty members may exercise their rights as outlined in section 2.08 of the Faculty Handbook.

For Student Responding Parties: The case is forwarded for charges and processing under the Student Code of Conduct procedures. For detailed information on charges, options for adjudication, procedures, and Reporting Party and Responding Party rights, consult the Student Code of Conduct.

In the Formal Resolution process for students, both the Reporting Party and Responding Party should be offered the opportunity to be present during the hearing; to make any statements they wish to make prior to concluding the hearing; to have an advisor of their choice present at the hearing or any related meetings; and to submit impact statements. The Reporting Party and the Responding Party will be given similar and timely notice of meetings and access to materials that will be used in meetings or proceedings.

Mercer University uses the preponderance of evidence (also known as “more likely than not”) as a standard of proof of whether a violation of the SMRV policy occurred.

The hearing body retains the right to request additional information deemed necessary to clarify any questions or issues, and to determine responsibility. The final results of this hearing body will be shared simultaneously with both the Reporting Party and Responding Party. A copy will be retained in the Title IX Coordinator’s records.

Sanctions

If a violation of this SMRV Policy is found, the determination of sanctions is made in light of the unique facts and circumstances surrounding each individual case and the previous conduct history of the responding party.

Students found responsible for violations(s) of the Sexual Misconduct and Relationship Violence Policy will be subject to sanctions that include, but are not limited to, one or more of the following:

- **Warning:** Formal written notice to the student and official recognition that a violation has occurred.
- **Counseling Assessment:** A recommendation to be evaluated by psychological services to help the student deal more effectively with his/her conduct issue.
- **Community Service:** Performance of a preapproved service location for a prescribed number of hours to the local or University community.
- **Creative/Educational Sanctions:** Attendance at educational programs, interviews with appropriate officials, planning and implementing educational programs, research papers and other educational activities related to the violation.
- **Restriction:** The withdrawal of specified privilege(s) for a definite period of time. Restrictions may include, but are not limited to requirements such as: not entering certain areas of housing or the campus, not contacting a certain individual or group, or not operating a motor vehicle on campus. Students may also be restricted from holding office in any student organization or participating in some activities.
- **Fines:** Not to exceed $150 per individual or $300 per student organization.
- **Restitution:** A payment of financial injury in cases involving theft, destruction of property or deception.
- **Probation:** A period of time during which any further violations of the Student Code of Conduct may impact or jeopardize the student’s status in a specific manner. The four types of probation that can be imposed are as follows:
- **Conduct Probation.** A specified period of time in which any future violations of the Student Code of Conduct can result in increased sanctions being imposed that exceed those of a student who is not on conduct probation.

- **Housing Probation.** A specified period of time in which any future violations of the Student Code of Conduct will result in the termination of housing privileges and access to any University-owned housing facilities.

- **Social Probation.** Notice to an organization or student that all or a portion of social functions must cease for a designated period of time.

- **University Probation.** A specified period of time during which any further violation of the Student Code of Conduct may result in suspension or expulsion. As part of this probation, students may be restricted from holding certain leadership positions or participating in some activities.

- **Forced Change of Residence.** The temporary or permanent relocation of a student within housing.

- **Eviction from University Housing.** Permanent removal from the housing system.

- **Suspension.** The termination of the student’s attendance or an organization’s representation at the University for an indefinite or specified period of time. A suspension means that students may not be on University property or that an organization is prohibited from being recognized at any time without prior approval from the Vice President for Student Affairs or designee. Stipulations may be applied to either the student or organization as a condition for ending the suspension.

- **Expulsion.** The permanent separation of the student from the University.

- **Deferred Degree.** The holding of an academic degree for a specified period of time with or without conditions.

- **Withholding Degree.** The withholding of a student’s diploma for a specified period of time and/or denying a student participation in commencement activities if the student has a grievance pending, or as a sanction if the student is found responsible for an alleged violation.

- **Revocation of Degree.** Revoking a degree awarded from the University for fraud, misrepresentation or other violation of University policies, procedures or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.

Faculty or staff found responsible for violations(s) of the Sexual Misconduct and Relationship Violence Policy will be subject to sanctions that include, but are not limited to, one or more of the following:

- Required training
- Required research and education, including writing a report on a certain topic(s)
- Verbal reprimand or warning – reminded of policy
- Written reprimand or warning with a copy placed in employee’s personnel file
- Performance improvement plan
- Informal or formal counseling by Human Resources or counseling services
- No contact directive
- Review of Title IX reporting procedures
- Syllabus and/or materials going forward are required to indicate content
- Prohibit use of personal email addresses
- Reassignment
- Realignment or removal of certain responsibilities, including eliminated as an Advisor
- Restricted access from or suspension of certain University privileges, University events or University property
- Revocation or deferral of honorary distinctions or designations
- Loss of eligibility for phased retirement
- Loss of pay
- Ineligibility for annual pay increase
- Revocation of tenure
- Demotion
- Non-reappointment
- Probation
- Suspension
- Resignation in lieu of termination
- Early termination of employment or other contracts
- Termination
- Referral for prosecution

**Step 5: Appeal**

Either party may appeal the results of the resolution process. Both parties will be informed simultaneously, in writing, of the procedures for appealing the results.

If the Responding Party is a student, appeals should be handled in accordance with the Student Code of Conduct and directed to the Dean of Students within three (3) working days after receipt of the written results.

If the Responding Party is an employee, appeals from either the Reporting Party or Responding Party should be directed to the Executive Vice President for Administration and Finance within ten (10) working days after receipt of the written results.

**Grounds for Appeal**

Any such appeal shall be in writing and shall state the grounds for the appeal. Grounds for appealing the results are:

1. A significant error in adhering to Mercer’s procedural process, which prejudiced the accused to the extent that the student was denied a fundamentally fair hearing as a result of the error. Procedural flaws alone are not grounds for an appeal. Significant procedural errors that may have affected the verdict or sanction will be considered.

2. The emergence of new evidence that could not have been previously discovered and that, had it been represented at the initial hearing, would have substantially affected the original decision.

3. The imposition of sanctions which are disproportionate to the offense.

For cases where the Responding Party is a student, the Dean of Students shall make a decision. The Dean of Student’s decision is final.

For cases where the Responding Party is an employee, the Executive Vice President for Administration and Finance shall make a decision within 30 working days of receipt of the appeal. The Executive Vice President’s decision is final.

Both parties will be notified simultaneously, in writing, about any changes that occur prior to the time the results become final and the outcomes of any appeal. A copy will be sent to the Office of Human Resources for faculty and staff, and to the Title IX Coordinator. A copy will be sent to the Dean of Students for students and to the Title IX Coordinator. The University will follow the law in protecting the Reporting Party’s and Responding Party’s privacy. The University will protect Reporting Party privacy, including publicly available records, and will withhold Reporting Party identity to the extent permissible by law.

**Additional Information and Resources**

Mercer University takes the issue of sexual and intimate partner violence seriously; and annually offers a variety of prevention, training, and education programs aimed at creating awareness and increasing safety for our community. For information on these programs, as well as information and resources related to bystander intervention programs, warning signs of abusive behavior, and other safety tips, contact the Title IX Coordinator at (478) 301-2788. It is imperative that Reporting Party of any of the above offenses take immediate steps to preserve evidence after an incident occurs, and report the violation immediately.