

# Marywood University

## Policies and Procedures

### *Interim Title IX Policy*

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### *Interim Title IX Policy*

*Applies to Sex Discrimination, Sexual Assault, Dating Violence, Domestic Violence, Stalking, Sexual Exploitation, and Retaliation*

#### I. POLICY STATEMENT

Marywood University (the “University”) “honors the uniqueness and dignity of each human person” (Core Values of Marywood University, Respect). The University declares and affirms a commitment to maintaining a comfortable, healthy, and safe learning, living, and working environments for all members of the Marywood Community. Marywood does not condone and will not tolerate sexual discrimination or sex-based harassment of any kind, including, but not

limited to, sexual assault, domestic violence, dating violence, stalking, sexual exploitation, or Retaliation (collectively, Prohibited Conduct). As detailed below, reports involving Prohibited Conduct will follow one of two Resolution Processes:

- Sex Discrimination and Employee Process: All complaints of sex discrimination (involving students and/or employees); complaints of sex-based harassment, sexual assault, dating violence, domestic violence, stalking involving employees or other non-student Parties; and complaints of Retaliation will be resolved by an investigation and a determination by a Decisionmaker.
- Student-Specific Process for Sex-based Harassment: Complaints of sex-based harassment, sexual assault, dating violence, domestic violence, stalking involving a student Complainant or Respondent will be resolved by an investigation and a determination by a Hearing Officer.

Marywood University is subject to Title IX of the Educational Amendments of the 1972 (“Title IX”), 20 U.S.C. §§1681, et seq., which states that “[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” Marywood University does not discriminate on the basis of sex and will not tolerate sex discrimination or sex-based harassment in any form, including as defined by Title IX. Marywood University is committed to taking all necessary steps to comply with Title IX, Title VII of the Civil Rights Act of 1964, as amended, and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the “Clery Act”), as amended by relevant provisions of the Violence Against Women Reauthorization Act of 2013 (“VAWA”). The Interim Policy is designed to implement the legal requirements of the April 2024 Title IX Regulations, adopted by the U.S. Department of Education, 34 C.F.R. 106 et seq. These are explicit civil and legal applications of the formulation of beliefs already cherished in Marywood’s Mission and Core Values.

Inquiries concerning the application of Title IX may be directed to the Title IX Coordinator, a Deputy Title IX Coordinator for the University, or to the Assistant Secretary for the Office of Civil Rights of the United States Department of

Education (see below for contact information). Marywood University's complete Notice of Non-Discrimination is available on the Marywood Policies page.

Anyone who experiences, is a witness to, or otherwise has reason to believe or become aware of Prohibited Conduct that may be in violation of this Policy is encouraged to report the incident as soon as possible to the Title IX Coordinator or one of the Deputy Title IX Coordinators. Marywood University will take the steps necessary to stop Prohibited Conduct, prevent its reoccurrence, and correct its discriminatory effects on the Complainant and others.

Retaliation against an individual for participating in any way in a report, investigation, hearing or other proceeding under this Policy is strictly prohibited.

## **II.SCOPE OF POLICY**

This Policy applies to all faculty, staff, administration, employees, students, volunteers, and visitors, including applicants for admission and employment. The Policy applies to conduct that occurs within the University's education program or activities, which includes all of its operations; on-campus conduct; off-campus conduct at University-sponsored events, including, but not limited to, academic and educational programming, internships, athletic events, and all other University programming; conduct that occurs in a building owned or controlled by a student organization that is officially recognized by the University; conduct that is subject to the University's disciplinary authority; and conduct outside of the University's education program or activity that contributes to a hostile environment within the University's education program or activities.

## **III. TITLE IX COORDINATOR and DEPUTY TITLE IX COORDINATORS**

The Title IX Coordinator coordinates the University's efforts to comply with its responsibilities under Title IX and this Policy. These responsibilities include, but are not limited to:

- Providing oversight of the investigation and resolution of all reports of Prohibited Conduct.

- Advising any individual who believes that they may have been subjected to Prohibited Conduct about what support, resources, and action steps are available to them.
- Advising any individual who may be the subject of a complaint of Prohibited Conduct about the process and providing support and resources.
- Other duties as required by law.

The following individuals are responsible for coordinating Marywood University's efforts to comply with Title IX and this Policy:

Dr. Jeff Kegolis, Ph.D.  
Vice President for the Student Experience and  
Title IX Coordinator  
email: [jkegolis@marywood.edu](mailto:jkegolis@marywood.edu)  
phone: 570-348-6211 x. 6050

Ms. Kimberly Padden, Director of Human Resources  
Deputy Title IX Coordinator  
[kpadden@marywood.edu](mailto:kpadden@marywood.edu)  
(570) 961-4549

Ms. Nicole Malloy, Associate Director of Athletics and Recreation  
Deputy Title IX Coordinator  
[malloy@marywood.edu](mailto:malloy@marywood.edu)  
(570) 348-6211 x.2489

Please contact any of the above with questions regarding Title IX or this Policy. Questions may also be directed to:

Assistant Secretary for Civil Rights  
U.S. Department of Education, Office of Civil Rights  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1100  
Telephone: 800-421-3481  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)

## IV. DEFINITIONS

Terms used in this policy have the following meanings:

**Advisor:** An Advisor is a person who has agreed to provide support and advice to a Complainant or Respondent, subject to the provisions of Section \_\_\_.

**Appeal Officer:** The individual(s) responsible for determining an appeal under Section XIV. The Appeal Officer may be a Marywood employee or an external professional. The Appeal Officer will be a neutral, impartial, and appropriately trained individual who does not serve as Marywood's Title IX Coordinator, Investigator, Hearing Officer, or Decision Maker assigned to the matter that is the subject of the Appeal.

**Complainant:** An individual who is reported to be experienced Prohibited Conduct. This includes students, employees, and other individuals who are participating in or seeking to participate in the University's education program or activities at the time of the reported conduct.

**Consent:** A knowing, voluntary and mutual decision among participants to engage in sexual activity, as discussed further in Section IV.

**Decisionmaker:** The individual responsible for determining the outcome and sanctions under Section XII-4-D. relating to the Sex Discrimination and Employee Process in which the Complainant and the Respondent are not a student. The Decisionmaker may be a University employee or an external professional. The Decisionmaker will be a neutral, impartial, and appropriately trained individual who does not serve as Marywood's Title IX Coordinator or the Investigator who investigated the matter.

**Hearing Officer:** The individual responsible for conducting the Hearing under Section XII-C relating to the Student-Specific Process for Sex-based Harassment (in which a Complainant or a Respondent is a student). The Hearing Officer is responsible for reaching a decision on responsibility and assigning sanctions, if appropriate. The Hearing Officer may be a University employee or an external professional. The Hearing Officer will be a neutral, impartial, and appropriately

trained individual who does not serve as Marywood's Title IX Coordinator or the Investigator who investigated the matter that is the subject of the Hearing.

**Informal Resolution Facilitator:** The individual responsible for facilitating Informal Resolution, as discussed in Section XII. The Informal Resolution Facilitator may be a University employee or an external professional. The Informal Resolution Facilitator will be appropriately trained and experienced.

**Investigator:** The individual responsible for conducting in the investigation of a complaint of Prohibited Conduct, as discussed in Section XII-B. The investigator may be Marywood University's employee or an external professional. The Title IX Coordinator may serve as the Investigator. Any Investigator used by the University will receive annual training as required by Title IX and the Clery Act.

**Party or Parties:** Party refers to a Complainant or a Respondent. Parties refers to Complainant and Respondent collectively.

**Prohibited Conduct:** Prohibited Conduct includes sex-based harassment, dating violence, domestic violence, stalking, sexual exploitation, and Retaliation.

**Relevance:** For purposes of this Policy, questions are relevant when they seek evidence that may aid in showing whether the Prohibited Conduct occurred as reported, and evidence is relevant when it may aid the Decisionmaker or Hearing Officer in determining whether the Prohibited Conduct occurred.

**Respondent:** An individual who has been reported to have engaged in any form of Prohibited Conduct.

**Prohibited Conduct includes the following:**

- **Sex Discrimination:** Adverse treatment of any individual or group of individuals based on sex, gender, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and/or gender identity.
- **Sex-Based Harassment:**

- *Quid pro quo* harassment: Conduct on the basis of sex that involves an employee, agent, or other person authorized by Marywood to provide an aid, benefit, or service under Marywood's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
- Hostile environment harassment: Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from Marywood's education program or activity (*i.e.*, creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:
  - (1) The degree to which the conduct affected the Complainant's ability to access the College's education program or activity;
  - (2) The type, frequency, and duration of the conduct;
  - (3) The parties' ages, roles within Marywood's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
  - (4) The location of the conduct and the context in which the conduct occurred; and
  - (5) Other sex-based harassment in the University's education program or activity.
- **Sexual Assault:** Sexual assault is having or attempting to have sexual contact with another individual without Consent or where the individual cannot Consent because of age or temporary or permanent mental incapacity (see below for definition of **Consent**, including **incapacitation**). Sexual contact includes:
  - (i) sexual intercourse (anal, oral, or vaginal), including penetration with a body part (e.g., penis, finger, hand, or tongue) or an

object, or requiring another to penetrate themselves with a body part or an object, however slight; or

- (ii) sexual touching of the private body parts, including, but not limited to, contact with the breasts, buttocks, groin, genitals, or other intimate part of an individual's body for the purpose of sexual gratification; or
- (iii) attempts to commit Sexual Assault.

- **Dating Violence:** Violence, including sexual or physical abuse or the threat of such abuse, committed by a person (a) who is or has been in a social relationship of a romantic or intimate nature with the alleged victim; and (b) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship, (ii) the type of relationship, and (iii) the frequency of interaction between the persons involved in the relationship.
- **Domestic Violence:** Violence committed by a current or former spouse or intimate partner of the alleged victim, by a person who is cohabitating with or has cohabitated with the alleged victim or spouse or intimate partner, by a person similarly situated to a spouse of the alleged victim under the domestic or family violence laws of Pennsylvania, or by any other person against an adult or youth alleged victim who is protected from that person's act under the domestic or family violence laws of Pennsylvania.
- **Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress. For purposes of this definition, (a) course of conduct means two or more acts, including, but not limited to, acts in which the alleged stalker 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; (b) reasonable person means a reasonable person under similar circumstances and with similar identities to the victim; and (c) substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

- **Sexual Exploitation:** taking non-consensual or abusive sexual advantage of another for one's own benefit or for the benefit of anyone other than the person being exploited.
- **Retaliation:** No one may intimidate, threaten, coerce or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual 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. Retaliation also includes by a student against another student. In evaluating whether Retaliation has occurred, Marywood University may consider whether the conduct in question constituted the exercise of rights protected under the First Amendment or was covered by another Marywood University Policy, including with respect to freedom of expression or academic freedom.

## **V. CONSENT CONSIDERATIONS**

A person who wants to engage in a specific sexual activity is responsible for obtaining Consent for that activity. Silence or lack of resistance, in and of itself, does not constitute Consent. Consent can be given by words or actions, provided that those words or actions clearly communicate willingness to engage in the sexual activity. Consent cannot be obtained through coercion. For purposes of this Policy, coercion is the use of threats (i.e., words or actions) or intimidation (i.e., implied threats) that would cause a reasonable person to engage in unwelcome sexual activity against their will.

Consent cannot be obtained from an individual who is incapacitated, where a reasonable, sober person initiating sexual activity would have known or reasonably should have known that the individual was incapacitated. An individual who is under the influence of alcohol and/or drugs may be incapacitated, and therefore unable to Consent. However, consumption of alcohol or other drugs alone is insufficient to establish incapacitation. Incapacitation is a state beyond drunkenness or intoxication, where an individual cannot make a knowing and deliberate choice to engage in the sexual activity.

Individuals who are asleep, unresponsive or unconscious are incapacitated. Other indicators that an individual may be incapacitated include, but are not limited to, the inability to communicate coherently, inability to dress/undress without assistance, inability to walk without assistance, slurred speech, loss of coordination, vomiting, or inability to perform other physical cognitive tasks without assistance. An individual also may be incapacitated due to a temporary or permanent physical or mental health condition.

Consent may be withdrawn by any party at any time. An individual who seeks to withdraw Consent must communicate, through clear words or actions, a decision to cease the sexual activity. Consent is automatically withdrawn when a party is no longer capable of Consenting. Once Consent is withdrawn, the sexual activity must cease immediately. Consent must be re-established before resuming any sexual activity. Consent to one form of sexual activity does not, by itself, constitute Consent to another form of sexual activity. Consent to sexual activity on one occasion does not constitute Consent to sexual activity on other occasions. An individual's use of alcohol or drugs does not diminish that individual's responsibility to obtain Consent.

## **VI. PRIVACY V. CONFIDENTIALITY**

The following information about Privacy and Confidentiality is intended to differentiate these two terms as they are used in the Title IX process.

**Privacy** refers to the discretion that will be exercised by the University in the course of any investigation or disciplinary processes under this Policy. Marywood University respects the privacy of individuals involved in any report of alleged Prohibited Conduct, meaning the Title IX Coordinator and others responsible for carrying out this policy will disclose information only as required to implement this Policy or by law. The University will make reasonable efforts to investigate and address reports of Prohibited Conduct under this Policy, and information may be disclosed to participants in an investigation as necessary to facilitate the thoroughness and integrity of the investigation. Marywood will also take reasonable steps to protect the privacy of parties and witnesses during the pendency of the Resolution Process provided that these steps do not restrict the

ability of the parties to obtain and present evidence; consult with confidential resources, Advisors, or family members; or prepare for or participate in the process.

**Confidentiality** refers to the level of protection that must be applied to statutory protections provided to individuals who disclose information in legally protected or privileged relationships, including professional mental health counselors, medical professionals, and ordained clergy (see Confidential Resources below). These Confidential Resources must maintain the confidentiality of communications disclosed within the scope of the provision of professional services. When an individual shares information with a Confidential Resource (on campus or in the community) as a confidential communication in the course of a protected relationship, the Confidential Resource cannot disclose the information (including information about whether an individual has received services) to any third party without the individual's written permission or unless permitted or required consistent with ethical or legal obligations. Similarly, medical and counseling records cannot be released without the individual's written permission or unless permitted or required consistent with ethical or legal obligations.

**On-campus Confidential Resources include:**

- Counseling and Student Development Center  
Confidential Resource  
McGowan Room 1017  
(570) 348-6245
- Student Health Services  
Loughran Hall, Terrace Level  
570-348-6249  
[healthservice@marywood.edu](mailto:healthservice@marywood.edu)
- Campus Ministry  
Swartz Center for Spiritual Life  
570-961-4703
- Marywood University Chaplain

570-961-4703

- Student Disabilities Services  
Learning Commons, Second Floor  
570-348-6211 x2335  
disabilityservices@marywood.edu

**Off Campus Confidential Resources:**

- Women’s Resource Center of Lackawanna County  
(570) 346-4671
- Geisinger Community Medical Center  
1800 Mulberry Street, Scranton, Pennsylvania 18510  
(570) 703-8000

**National Hotline:**

- National Sexual Assault Hotline is a free confidential resource available 24 hours a day by calling (800) 656- HOPE or the [rainn hotline](#).

**VII. REPORTING**

Marywood has an interest in supporting those who have experienced any form of Prohibited Conduct and encourages all members of the Marywood community to promptly report any incident of Prohibited Conduct. Marywood cannot take appropriate action unless informed of the allegation.

**A. Reports to Emergency Services and Immediate Care**

Personal safety and well-being is the first priority. To address immediate safety concerns, Marywood encourages individuals to seek the assistance of Campus Safety or local law enforcement, call 911 or go to an emergency room. These professionals are equipped to assist with an emergency response, preserving evidence, and providing an investigative response.

If you have experienced any form of Prohibited Conduct, the preservation of evidence is critical and particularly time sensitive. It is important to be aware of the importance of preserving evidence by taking the following actions:

1. Seek medical assistance at the hospital, ideally within 72 hours of the incident.
2. Do not shower, bathe, wash hands or face, or douche.
3. Try not to urinate.
4. If oral contact took place, refrain from smoking, eating, drinking, or brushing teeth.
5. If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence).

## **B. Reports to Law Enforcement**

Some forms of Prohibited Conduct may also be criminal offenses, in addition to being Marywood University policy violations. Marywood encourages, but does not require, individuals to report these crimes to the police. A Complainant has the right to notify, or decline to notify, law enforcement. If requested, Marywood will assist a Complainant in making a report to law enforcement. In some instances, where necessary to protect the health and safety of the Complainant or any other member of the University community, Marywood may notify law enforcement directly.

Marywood University Campus Safety  
Maintenance Building  
570-348-6242  
[mpasqualicchio@marywood.edu](mailto:mpasqualicchio@marywood.edu)

Dunmore Police Department  
402 S Blakely Street  
Dunmore, Pennsylvania 18512  
(570) 343-0851

Scranton Police Department  
100 S Washington Avenue

Scranton, Pennsylvania 18503  
Phone: (570) 348-4130

### **C. Reports to the University**

Any person may report conduct constituting possible Prohibited Conduct to the Title IX Coordinator in person, by mail, by telephone, by email or online. Upon receipt of a report, the Title IX Coordinator will initiate a response process. There is no time limit for reporting Prohibited Conduct, although the University's ability to respond may be limited if the Respondent is no longer subject to the University's disciplinary authority.

Dr. Jeff Kegolis, Ph.D.  
Vice President for the Student Experience and  
Title IX Coordinator  
email: [jlkegolis@marywood.edu](mailto:jlkegolis@marywood.edu)  
phone: 570-348-6211 x. 6050

Ms. Kimberly Padden, Director of Human Resources  
Deputy Title IX Coordinator  
[kpadden@marywood.edu](mailto:kpadden@marywood.edu)  
(570) 961-4549

Ms. Nicole Malloy, Associate Director of Athletics and  
Deputy Title IX Coordinator  
[malloy@marywood.edu](mailto:malloy@marywood.edu)  
(570) 348-6211 x.2489

In addition, individuals may make an anonymous report of Prohibited Conduct by submitting a report through Marywood University's anonymous reporting hotline on [Ethics Point](#). Depending on the information provided, Marywood University's ability to act in response to an anonymous report may be limited.

### **D. Employee Reporting Responsibilities**

Marywood University, as a matter of policy, requires Responsible Employees to promptly report disclosures of Prohibited Conduct to the Title IX Coordinator or Deputy Title IX Coordinator, including all information that has been disclosed to the Responsible Employee, such as the names of those involved, the location of the incident, the alleged Prohibited Conduct, etc.

All students and employees, even if not Responsible Employees are strongly encouraged to report instances of possible Prohibited Conduct to the Title IX Coordinator or Deputy Title IX Coordinator.

The following individuals are Responsible Employees:

- All faculty members
- All staff and administration members (except if/when serving in the capacity as designated confidential resources (e.g. student health services) (See Section VI-V regarding Confidential Resources)

Confidential Resources who receive a disclosure of Prohibited Conduct are required to provide with the disclosing individual with the contact information of the Title IX Coordinator and inform the individual that the Title IX Coordinator may offer support and services to the party.

### **E. Amnesty**

The University encourages reporting and seeks to remove barriers to reporting by providing amnesty for Complainants and witnesses who report Prohibited Conduct for potential conduct violations occurring at or near the time of the incident. In general, the University will not pursue disciplinary action against a student who makes a good faith report to the University as a Complainant or witness to Prohibited Conduct for personal consumption of alcohol or other drugs (underage or illegal) which would otherwise be a violation of University policy, provided the misconduct did not endanger the health or safety of others. The University may initiate an assessment or educational discussion or pursue other non-disciplinary options regarding alcohol or other drug use.

## **VIII. RESPONSE TO REPORTS**

## **A. Initial Outreach to the Complainant**

The Title IX Coordinator or Deputy Title IX Coordinator, upon receiving a report of Prohibited Conduct, will promptly contact the Complainant. The Title IX Coordinator or Deputy Title IX Coordinator will inform the Complainant of the following:

- The availability of Supportive Measures;
- That the Complainant's wishes with respect to Supportive Measures will be considered;
- That Supportive Measures are available regardless of the Complainant filing a complaint; and
- The options for filing a Complaint and an explanation of the Resolution Process.

The Title IX Coordinator or Deputy Title IX Coordinator will also inform the Complainant of the following:

- The right to contact or decline to contact law enforcement, if applicable;
- The availability of medical or mental health resources to address physical or mental health concerns;
- The importance of preserving evidence, if applicable;
- The right to have an Advisor of their choice to assist the Complainant through the investigation and resolution of their complaint, and the right to have their Advisor accompany them to any meeting or proceeding under the Formal Resolution Process.
- Marywood's prohibition of Retaliation.

Complainants are encouraged, but not required, to proceed with a complaint. If the Complainant proceeds with a complaint, the Title IX Coordinator or designee will begin the Resolution Process. If the Complainant does not want to proceed with a complaint or take action with respect to the report of Prohibited Conduct, the Title IX Coordinator will offer Supportive Measures to the Complainant and if the circumstances allow Marywood to honor the Complainant's request, the Title IX Coordinator will not pursue formal action. If the Complainant later decides to pursue a complaint, the University will similarly honor that request. A

Complainant is not required to proceed to an investigation to receive Supportive Measures.

The Title IX Coordinator may initiate a complaint without the Complainant's participation. In making this determination, the Title IX Coordinator will consider a range of factors, including:

- the totality of the known circumstances
- the Complainant's request not to proceed with initiation of a complaint;
- the Complainant's reasonable safety concerns regarding the initiation of a complaint;
- the risk that additional acts of sex discrimination or sex-based harassment would occur if a complaint is not initiated;
- the severity of the alleged Prohibited Conduct, including where the conduct, if established, would require the removal of a Respondent from campus or imposition of another disciplinary sanction to end the conduct and prevent its reoccurrence.
- the respective ages and roles of the Complainant and Respondent, including whether the Respondent is a University employee;
- the nature and scope of the alleged conduct, including whether the reported behavior involves the use of a weapon;
- the risk that the Respondent may commit additional acts of Prohibited Conduct or other violence, taking into consideration, among other matters, any known history of arrests, violence, or other complaints of Prohibited Conduct involving the Respondent, any threats of future violence made by the Respondent, and whether multiple Respondents were involved in the reported incident;
- whether the report reveals a pattern of misconduct related to Prohibited Conduct (e.g., illicit use of drugs or alcohol) at a given location or by a particular group, or the Prohibited Conduct is reported to have impacted multiple individuals;
- whether the University possesses other means to obtain relevant evidence;
- whether the University could end the Prohibited Conduct and prevent its recurrence without pursuing a formal resolution process;

- the University's obligation to provide a safe and non-discriminatory environment; and
- any other available and relevant information.

Where possible based on the facts and circumstances, the University will take all reasonable steps to respond to the report consistent with the Complainant's requested course of action, but its ability to do so may be limited based on the reported information. If the Title IX Coordinator determines that the reported conduct presents an imminent and serious threat to the health or safety of the Complainant or other person, or that the conduct as reported prevents the University from ensuring equal access on the basis of sex to its education program or activity, the Title IX Coordinator may initiate a Complaint. Where the balance of factors requires the Title IX Coordinator to pursue a Complaint on behalf of the Complainant, the Title IX Coordinator or a Deputy Title IX Coordinator will inform the Complainant in writing prior to doing so and will appropriately address reasonable concerns about the safety of the Complainant or other individuals, including by providing Supportive Measures.

## **IX. EMERGENCY REMOVAL**

If at any point following the receipt of a report of Prohibited Conduct, Marywood University determines that the Respondent poses an imminent and serious threat to the health or safety of the Complainant or any other person(s), including the Respondent, Marywood University may temporarily remove the Respondent from any or all of its programs or activities. The imposition of an Emergency Removal does not suggest a finding of responsibility for any Prohibited Conduct.

Before imposing an Emergency Removal, the Marywood University's Behavioral Intervention Team (BIT) will undertake an individualized safety and risk analysis concerning the Respondent at the request of the Title IX Coordinator. An Emergency Removal will be imposed only if the BIT concludes that the imminent and serious threat to health or safety arises from the allegations of Prohibited Conduct and warrants the removal. An Emergency Removal may involve the denial of access to some or all of Marywood University's campus facilities, academic program, or other programs or activities. While Marywood University may provide alternative academic or employment opportunities during an

Emergency Removal, it is not required to do so. Nonpunitive actions taken as Supportive Measures (e.g., changes in housing) do not constitute Emergency Removals.

The Title IX Coordinator will notify the Respondent of the terms imposed in connection with an Emergency Removal. The Respondent has the opportunity to challenge the Emergency Removal upon receipt of that notice. In order to challenge the Emergency Removal, the Respondent must submit an appeal to the Interim Vice President of Academic Affairs or Director of Human Resources for employees within (3) three calendar days from the date of the notice of Emergency Removal, explaining why Emergency Removal is not appropriate. In evaluating the appeal, the University may seek additional information from Respondent or any other individual. The Emergency Removal will remain in place while the appeal is pending. The University will issue a decision as soon as possible under the circumstances. The decision is final and not subject to further appeal.

Separate from the Emergency Removal process, at the discretion of Marywood University, during the pendency of the process, employee Respondents may be placed on an administrative leave, with or without pay.

## **X. SUPPORTIVE MEASURES**

Supportive Measures are non-disciplinary, non-punitive individualized services which may be provided to Complainants or Respondents upon request, when deemed by the Title IX Coordinator to be appropriate and reasonably available. Supportive Measures may also be imposed at the initiative and in sole discretion of the Title IX Coordinator. Supportive Measures are available beginning at any time after the submission of a report of Prohibited Conduct, regardless of whether a complaint is pursued.

Supportive Measures are designed to restore or preserve access to Marywood University's educational programs and activities, without unreasonably burdening the other party, including measures that are designed to restore or preserve access to the recipient's education program or activity, to protect the safety of the Complainant or the Respondent or Marywood's community, or provide

support during the informal or formal resolution process. Supportive Measures may be of any duration and may be modified at the discretion of the Title IX Coordinator. Supportive Measures will be kept confidential to the extent doing so does not impair Marywood University's ability to provide them.

Supportive Measures may include, but are not limited to, the following:

- Access to counseling services;
- Extensions of deadlines or other course-related adjustments;
- Modification of work or class schedules, work or housing locations, or extracurricular activities, regardless of whether there is a comparable alternative;
- Restrictions on contact applied to one or more parties (i.e., no contact orders);
- Leaves of absence;
- Increased security and monitoring of certain areas; or
- Any other measures deemed appropriate by the Title IX Coordinator.

If the Complainant or Respondent is a student with a disability, the Title IX Coordinator may consult, as appropriate, with Student Disability Services, 570-348-6211 x 2383, [disabilityservices@marywood.edu](mailto:disabilityservices@marywood.edu) to determine how to comply with Section 504 of the Rehabilitation Act and related laws in the implementation of Supportive Measures.

Marywood University will maintain as confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the University's ability to provide the Supportive Measures. This includes not informing one party of Supportive Measures provided to another party, unless necessary to provide the Supportive Measure, to restore or preserve the party's access to the education program or activity, or as otherwise required or permitted by law.

A student or employee's failure to abide by the terms of any Supportive Measure may result in discipline and, depending on the circumstances, could be deemed to constitute Retaliation.

The Title IX Coordinator may terminate or modify Supportive Measures for either party at the conclusion of a Resolution Process, though the Title IX Coordinator may continue them beyond that point.

Parties may seek a modification or reversal of a decision to provide, deny, modify or terminate any Supportive Measure applicable to them by notifying the Title IX Coordinator in a timely manner (within five (5) business days) or upon a material change in circumstances. The Title IX Coordinator will refer the matter to a neutral and impartial employee with the authority to modify or reverse the decision.

## **XI. INITIATING THE RESOLUTION PROCESS**

### **A. Complaint**

In order to commence Marywood's Resolution Process under the Interim Policy, a complaint alleging Prohibited Conduct must be brought to the Title IX Coordinator.

Proceeding under the Resolution Process does not preclude a Complainant from pursuing the filing of criminal charges. However, it is important to understand that the standard for criminal prosecution is different from that used in student and employee conduct proceedings. As a result, decisions rendered in either forum are not determinative of what will happen in the other.

If the Title IX Coordinator receives complaints alleging Prohibited Conduct against more than one Respondent or by more than one Complainant against one or more Respondents, or by one Party against the other Party (i.e., "counterclaims"), where the allegations of sex-based harassment arise out of the same facts or circumstances and are so intertwined that the allegations directly relate to all of the Parties, the Title IX Coordinator has the discretion to consolidate the complaints.

### **B. Notice of Allegations**

Following the receipt of a Complaint, the Title IX Coordinator will provide a written Notice of Allegations to the Complainant and Respondent, if known, with sufficient time for the parties to prepare before any initial meeting. The Notice of Allegations will include the following:

- A copy of this policy.
- Notice of the allegations of conduct that may constitute Prohibited Conduct, with sufficient detail for the Respondent to prepare a response before any initial interview, including:
  - a) The conduct alleged to constitute the Prohibited Conduct;
  - b) The identities of the Parties involved; and
  - c) The date and location of the incident, if known.
- A statement that Retaliation is prohibited;
- The presumption that the Respondent is not responsible for the alleged Prohibited Conduct unless a determination of responsibility is reached at the conclusion of the Formal Resolution Process.
- Notice of the Parties' entitlement to an Advisor of choice at any meeting, interview, or other proceeding related to the Complaint.
- The identity of the Investigator.
- Notice that the Parties will have an equal opportunity to access and review relevant evidence gathered during the investigation.
- Notice that Marywood University's *Code of Conduct Policy* prohibits knowingly making false statements or knowingly submitting false information during the Resolution Process.

If additional allegations of conduct that might constitute Prohibited Conduct are identified during the course of the investigation and will be included in the Resolution Process, the Title IX Coordinator will issue an updated written notice.

If the University has reasonable concerns for the safety of the Respondent, Complainant, or any other person, as a result of providing this notice, the written notice of allegations may be reasonably delayed in order to address the safety concern appropriately. Reasonable concerns must be based on individualized safety and risk analysis and not on mere speculation or stereotypes.

Upon issuing a Notice of Allegations, the Respondent will be offered the opportunity to meet with the Title IX Coordinator or Deputy Title IX Coordinator to discuss available Supportive Measures, the prohibition on Retaliation, and the applicable resolution process.

### **C. Dismissal of a Complaint:**

The Title IX Coordinator may dismiss a complaint for any of the following reasons:

- After taking reasonable steps to do so, the University is unable to identify the Respondent;
- The Respondent is not participating in or attempting to participate in an education program or activity of the University or is no longer employed at the University;
- The Complainant voluntarily withdraws any or all allegations in the matter;
- If after taking reasonable efforts to clarify the allegations with the Complainant, the misconduct alleged in the complaint does not constitute Prohibited Conduct;
- Specific circumstances prevent Marywood University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegation.

Upon a determination by the Title IX Coordinator or a Deputy Title IX Coordinator that all or portions of a complaint must be dismissed, the Title IX Coordinator or a Deputy Title IX Coordinator will simultaneously provide the Complainant and Respondent the notice of dismissal. Notice will only be provided to the Respondent if the Respondent was previously notified of the complaint. The notice of the dismissal or partial dismissal will include the reasons for the full or partial dismissal, and, if a partial dismissal, what allegations will proceed through the process.

A Complainant or Respondent may appeal a full or partial dismissal of a Complaint in accordance with the Appeal Process included below.

### **D. Advisors:**

The parties are entitled to identify an Advisor of their choice, who may accompany them all to investigative interviews, Hearings, and other meetings or proceedings held in connection with the Resolution Process. An Advisor is a person who has agreed to provide support and advice to a Complainant or Respondent. The Parties are responsible for identifying their own Advisor, if they wish to have one.

Advisors may not speak aloud during any Resolution Process Proceedings, including by addressing anyone other than the individual for whom they are an Advisor. The Advisor may confer with the individual whom they are advising quietly or by means of written notes. Parties may request a brief recess to consult with their Advisor, which may be granted at the sole discretion of the individual facilitating the meeting or proceeding. An Advisor whose presence is deemed to be improperly disruptive or inconsistent with Rules of Decorum established by Marywood University will be required to leave and may be prohibited from participating in future Resolution Process Proceedings. While Marywood University may consider short delays in scheduling to reasonably accommodate an Advisor's availability, whether to grant such a request is in the sole discretion of the University.

#### **E. Time Frame for Resolution:**

Marywood University strives to resolve Complaints within ninety (90) calendar days of the submission of a Complaint, but balances its desire to achieve a prompt resolution with the need to conduct a thorough and complete investigation, which may delay that timeframe. Delays might also result from a number of factors, including but not limited to the appeal of a dismissal, impacts of concurrent criminal processes, or an attempt at Informal Resolution. The Title IX Coordinator may extend the time for completion of the Formal Resolution Process for good cause as determined in the sole discretion of the Title IX Coordinator, and will provide written notice to the Parties of the reason for extension or delay. At the discretion of the Title IX Coordinator, possible violations of the Student Code of Conduct or other policies that occurred directly in connection with the alleged Prohibited Conduct may be, but are not required

to be, addressed under the Formal Resolution Process here in lieu of engaging in a separate decision-making process for those possible violations.

## **XII. INFORMAL RESOLUTION PROCESS**

Informal Resolution presents the opportunity for the Complainant and Respondent to resolve allegations of Prohibited Conduct without an investigation or hearing. Participation in Informal Resolution in lieu of the Formal Resolution Process is purely voluntary. Informal Resolution is available only when the Parties agree to its use in writing. Informal Resolution may be used only with the approval of the Title IX Coordinator, who may deem its use inappropriate based on the specific allegations involved or other factors. Prior to initiating Informal Resolution, the Title IX Coordinator will provide the Parties with written notice disclosing the allegations, the requirements of the process, the right to withdraw from Informal Resolution to pursue formal resolution, and any consequences of participation (e.g., as it relates to any subsequent formal resolution if Informal Resolution is not achieved). Informal Resolution can be commenced at any point prior to the conclusion of a Hearing under the Formal Resolution Process. It is conducted by an Informal Resolution Facilitator appointed by the Title IX Coordinator.

The Complainant, Respondent, or the Title IX Coordinator or Facilitator may terminate Informal Resolution at any time prior to its completion. If informal Resolution is terminated, the Formal Resolution Process will promptly commence or resume, as appropriate.

Informal Resolution may take many forms as agreed upon by Complainant, Respondent, and Title IX Coordinator, including but not limited to:

- **Mediation:** may involve the Complainant and Respondent being in the same or different rooms, but they will never be required to be in the same room. Mediation typically does not require an admission of responsibility for the Prohibited Conduct by the Respondent.
- **Restorative Justice:** may involve the Complainant and Respondent being in the same or different rooms, but they will never be required to be in the same

room. Restorative Justice typically requires an admission of responsibility for the Prohibited Conduct, or certain allegations, by the Respondent.

If the Informal Resolution is terminated such that the matter resumes the Formal Resolution Process, any testimony and/or materials/documents used and/or submitted during the Informal Resolution may be used as evidence in the Formal Resolution at the discretion of the Hearing Panel/ Decision-maker(s). The informal Resolution Facilitator will not serve as a witness during the Formal Resolution Process.

The Title IX Coordinator may determine that Informal Resolution is not an appropriate option where the Respondent has had prior instances of resolving Formal Complaints through Informal Resolution or a Hearing, or when the Title IX Coordinator determines that the alleged conduct would present a future risk of harm to others. The Informal Resolution Process typically should be completed within thirty (30) calendar days of the parties documenting their agreement to participate. That period may be extended at the discretion of the Title IX Coordinator.

## **XII. FORMAL RESOLUTION PROCESS**

### **A. Investigation:**

The written Notice of Allegations will identify the appointed Investigator. Either party may object to the Investigator on the grounds of conflict of interest or bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent, by submitting an objection to the Title IX Coordinator in writing within three (3) calendar days of receipt of the issuance of the written notice. The Title IX Coordinator, in their sole discretion, shall determine whether a different Investigator should be appointed. The Investigator will investigate of the allegations in the Formal Complaint, and is responsible for interviewing the Parties and witnesses, and gathering relevant inculpatory and exculpatory evidence.

The Investigator may not access, consider, disclose, or otherwise use records that are made or maintained by a physician, psychiatrist, psychologist, or other

recognized professional or paraprofessional in connection with the provision of treatment to the Complainant or Respondent, unless the Investigator obtains the Complainant's or Respondent's, as appropriate voluntary written Consent to do so.

All Parties will have an equal opportunity to identify witnesses, including fact and expert witnesses, and other inculpatory evidence (used to establish responsibility) and exculpatory evidence (used to establish favorability or exonerate), for the Investigator. Parties will be provided with written notice of the date, time, location, participants and purpose of all investigative interviews in which they are expected to participate. Parties may be accompanied by an Advisor of their choice at any investigative interview.

The submission of knowingly false information is prohibited and will be addressed under Marywood University's *Code of Conduct Policy* for students and employment policies, including *Code of Conduct*, for faculty and staff. This provision does not apply to reports made and other information submitted in good faith, even if the facts alleged are not substantiated by an investigation and/or hearing decision.

#### **B. Investigation Report:**

The Investigator will prepare an investigation report summarizing all relevant evidence. The report will exclude all non-relevant evidence, as well as any evidence not subject to disclosure for reasons set forth herein (e.g., medical records regarding which the Party has not authorized disclosure). Upon request by the parties, the Investigator will provide an equal opportunity to access all relevant evidence obtained as part of the investigation.

The Complainant and Respondent will have ten (10) calendar days to provide a written response concerning the evidence to the Investigator, including identifying additional evidence, or request for further investigation for the Investigator's consideration prior to completing the investigation report. A Party's response will be shared with the other Party.

The Investigator will provide the Complainant and Respondent, and their Advisors, if any, a copy of the final investigation report after receipt of the Parties' responses concerning the evidence and at least ten (10) calendar days before the hearing or before the final investigation report is sent to the Decision Maker.

### **C. Student-Specific Process for Sex-based Harassment (When Either the Complainant or Respondent is a Student)**

#### **1. Hearing Notice:**

After the final investigation report has been provided to the Parties and their Advisors, if any, and not fewer than five (5) calendar days before the hearing, the Title IX Coordinator will issue a Hearing notice via email advising the Parties of the following:

- The date, time and location of the Hearing.
- The specific charges of Prohibited Conduct subject to disposition at the Hearing and a brief description of the conduct resulting in the charges.
- The individual(s) who will serve as the Hearing Officer(s)
- That the Hearing will take place with parties located in separate rooms with technology enabling the parties to simultaneously see and hear the party/witness answering questions, or remotely via an audiovisual platform.

Any party may object the hearing date or challenge the appointment of the Hearing officer for bias or conflict of interest by submitting a written objection to the Title IX Coordinator via email with three (3) calendar days of the Title IX Coordinator issuing the hearing notice.

The Title IX Coordinator, in their sole discretion, shall determine whether the Hearing Officer should be removed and/or the Hearing rescheduled. Once the Hearing Officer is confirmed, the Title IX Coordinator will provide the Hearing Officer with a copy of the investigation report.

#### **2. Hearing Procedures:**

Hearings are governed by the procedures set forth below. The formal Rules of Evidence that may apply to any courtroom proceeding do not apply to Hearings conducted under this Policy. The only individuals who may appear at a Hearing

are the Complainant and Advisor, Respondent and Advisor, and witnesses called by the Hearing Officer(s). The Parties and their Advisors may be present throughout the Hearing. Witnesses are permitted to be present only when providing testimony. The Investigator and Title IX Coordinator may be present throughout the Hearing, as may other Marywood University representatives at the discretion of the Hearing Officer. If a Party fails to attend a Hearing, the Hearing may be held in the Party's absence, and no negative inference will be held for the absence.

At least five (5) days before the Hearing, the Hearing Officer(s) will advise the Parties which witnesses will be requested to provide testimony at the Hearing. The Parties may request that additional witnesses be requested to be present at the Hearing. The request must be submitted to the Hearing Officer(s) in writing, including a brief description of why the information is relevant to the determination of responsibility, in sufficient time to secure the witness's attendance. Whether or not to approve such request as potentially providing relevant information shall be in the sole discretion of the Hearing Officer(s), who will advise the requesting Party of the final decision. If the request is approved, the Hearing Officer(s) will advise the other Party as well.

All relevant and not otherwise impermissible documentary evidence gathered in the Investigation will be made available at the Hearing, as well as all evidence produced by the Parties in their response.

The Hearing Officer is responsible for making all determinations of relevance as to witnesses, questions and documentary evidence presented at the Hearing. Evidence that is not relevant will be excluded at the Hearing and may not form the basis for any decision by the Hearing Officer. Evidence that is duplicative of evidence already in the Hearing record may be deemed not relevant. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the alleged conduct or if the questions and evidence concern a specific incident of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove Consent.

The Hearing Officer will make decisions on responsibility using a preponderance of the evidence standard (more likely than not).

The parties may be accompanied by their Advisor at the Hearing. The Advisor may not address the Title IX Coordinator, Investigator, Hearing Officer, other Advisors or any other individuals participating in the Hearing. Like the parties, Advisors are required to adhere to the Rules of Decorum applicable to Hearings. An Advisor who fails to do so may, at the sole discretion of the Hearing Officer, be required to leave the Hearing. The parties shall inform the Title IX Coordinator whether they will be accompanied at the Hearing by their Advisor of choice by no later than five (5) days before the Hearing.

### **3. Order of the Hearing:**

Following is the general framework for any Hearing. The Title IX Coordinator or Hearing Officer(s) may alter certain procedures as deemed appropriate in their sole discretion to aid in the equitable resolution of the matter.

- Opening Statements- Each party will have the opportunity to make a brief opening statement. The parties will make any statements themselves, not through their Advisor.
- Parties- Generally, the Hearing Officer will hear from the Complainant first, followed by the Respondent. Each Party will have the opportunity to provide relevant evidence to the Hearing Officer. The Hearing Officer will ask relevant follow-up questions of each party.
- Relevance- The Hearing Officer will determine whether questions are relevant prior to the Party answering the question. If the question is deemed not relevant, the Hearing Officer will provide a brief explanation and the question will be precluded. The Hearing Officer's decision is not subject to challenge or objection during the Hearing.
- Witnesses- A similar process and the same rules that apply to Parties will apply to the testimony of witnesses. Like the Parties, any witness may appear remotely, with technology allowing the Hearing participants to simultaneously see and hear the witness. The Investigator may be called as a witness.
- Closing Statement- Each Party will have the opportunity to make a brief closing statement. The Parties will make any statements themselves, not through their Advisor.

Attendance at the Hearing- If a party does not attend a hearing for any reason other than an emergency, the hearing may be held in their absence. After evaluating the totality of the information, the Hearing Officer may choose to place less or no weight upon statements by a person who refuses to respond to relevant and not impermissible questions. The Hearing Officer, however, must not draw an inference about whether Title IX Prohibited Conduct occurred based solely upon a person's refusal to respond to questions.

Rules of Decorum- The following Rules of Decorum apply to parties, Advisors and witnesses participating in any Hearing. Individuals failing to follow the Rules of Decorum may be directed to leave the Hearing, at the Hearing Officer's sole discretion. Although the Hearing Officer may provide warnings or reminders of the Rules of Decorum before such removal, a pre-removal warning or reminder will not necessarily be provided depending on the nature of the conduct in question. All parties, Advisors, and witnesses will conduct themselves in a manner that is consistent with the Core Values of Marywood University. In particular, the Core Value of Respect will be demonstrated throughout the Hearing proceedings. Any and all individuals in attendance at the Hearing will conduct themselves in accordance with the rules, guidelines, and procedures outlined in this Policy. At the discretion of the Hearing Officer(s) any violations of these measures may result in an individual's removal from the Hearing proceedings.

1. Do not talk on top of one another.
2. Do not shout or use an aggressive tone.
3. Use a party or witness's preferred pronouns
4. Do not ask the same questions repeatedly.

#### **4. Hearing Outcome Letter:**

The hearing outcome letter will be concluded within (5) five days of the conclusion of the hearing. It will be issued via email to the parties. It will include:

- A description of the allegations that led to the hearing, as potentially constituting Prohibited Conduct.

- A description of the procedural steps taken from the receipt of the Complaint through the determination.
- A statement of factual findings supporting the determination.
- A statement of the conclusions regarding the application of this Policy to the facts.
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility.
- An explanation of the disciplinary sanctions imposed on the Respondent, if any.
- A statement of whether remedies designed to restore or preserve equal access to Marywood's education program or activity will be provided to the Complainant specific remedies will be identified in the Hearing Outcome Letter only to the extent those remedies directly affect the Respondent. The Title IX Coordinator is responsible for implementing such remedies.
- The procedures and permissible bases for the Complainant and Respondent to appeal.

The Hearing Outcome becomes final following the determination of the appeals, if any, or upon the date following the deadline for filing an appeal, if no appeal is pursued. No further appeals of any kind are permitted.

#### **D. Sex Discrimination and Employee Process**

At least ten (10) calendar days after the final investigation report has been provided to the Parties and their Advisors, if any, the Title IX Coordinator will send the final investigation report to the assigned Decisionmaker.

1. The Decisionmaker must review the report and the relevant evidence.
2. Both the Complainant and the Respondent may submit questions to the Decisionmaker to be asked of the other party.
3. The Decisionmaker may meet with the parties, the witnesses, or the investigator if deemed appropriate and necessary by the Decisionmaker.
4. The Decisionmaker will determine, based on a preponderance of the evidence, whether the Respondent violated the Policy. The Decisionmaker will then provide an outcome letter to the parties and their Advisors, if any, simultaneously, and the Title IX Coordinator. The

outcome letter will include the allegations, findings based on a preponderance of the evidence, rationale, and sanctions, if applicable, and rationale, as well as the appeals procedures.

5. The outcome letter shall be distributed to the parties and the Title IX Coordinator within 10 days of the date of the Decisionmaker's last meeting with parties, witnesses, or the investigator, or, if no meetings with parties, witnesses, or investigators take place, then within 10 days of the Decisionmaker's receipt of the final report.

### **E. Sanctions and Remedies:**

If the Respondent is found responsible for any Prohibited Conduct, the Title IX Coordinator will provide the Hearing Officer or Decisionmaker with the Respondent's prior conduct record for consideration in the Hearing Officer's assignment of a sanction or sanctions.

Student Sanction: The range of available sanctions includes:

- **Warning:** A formal statement that the conduct was unacceptable and a warning that further violation of any Marywood Policy, procedure, in directive will result in more severe sanctions/ responsive actions.
- **Required Counseling:** A mandate to meet with and engage in either University sponsored or external counseling to better comprehend the misconduct and its effects.
- **Probation:** A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the events that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no contact orders, and/or other measures deemed appropriate.
- **Suspension:** Termination of student status for a definite period of time not to exceed two years/or until specific criteria are met.
- **Expulsion:** Permanent termination of student status and revocation of rights to be on campus for any reason or to attend University sponsored

events. This sanction may be noted permanently as a conduct expulsion on the student's official transcript, subject to any applicable expungement policies.

- **Withholding Diploma:** Marywood University may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending or as a sanction if the student is found responsible for an alleged violation.
- **Revocation of Degree:** Marywood University reserves the right to revoke a degree previously awarded from the University for fraud, misrepresentation, and/or other violation of Marywood Policies procedures, or directives obtaining the degree, or for other serious violations committed by a student prior to graduation.
- **Organizational Sanctions:** Deactivation, loss of recognition, loss of some or all privileges (including University registration) for a specified period of time.
- **Other Actions:** In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

**Employee Sanctions:** Responsive actions for an employee who has engaged in harassment, discrimination, and/or Retaliation include:

- Warning- Verbal/Written
- Performance Improvement/ Management Process
- Required Counseling
- Required Training or Education
- Probation
- Loss of Annual Pay Increase
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Suspension without pay
- Suspension with pay
- Termination

Remedies: The Title IX Coordinator is responsible for the implementation of remedies designed to restore or preserve equal access to Marywood University's education program or activity:

#### **XIV. APPEALS**

Either party may appeal a determination of responsibility (or non-responsibility) or dismissal of a complaint by submitting a written appeal to the Title IX Coordinator by email within three (3) calendar days of the notice of outcome. Appeals may be based on only one of the following:

- A procedural irregularity that would change the outcome;
- The existence of new evidence that was not reasonably available at the time of the Hearing that would change the outcome of the matter; and
- The Title IX Investigator or Hearing officer had a conflict of interest or bias against Complainants or Respondents generally, or the individual Complainant or Respondent, that would change the outcome of the matter.

The appeal must be in writing and clearly explain the basis for the appeal. If the appeal is from the outcome of a Hearing, the Parties shall have access to the record of the Hearing to prepare for their appeal on such terms as the Title IX Coordinator provides.

Upon receipt of an appeal, the Title IX Coordinator will notify the other Party that the appeal has been filed, permitting the party three (3) days to provide a response, and providing the parties with the identity of the Appeal Officer who will determine the matter. The Party's response will be provided to the appealing party, but no further exchange of positions is permitted. The Parties may challenge the appointment of the Appeal Officer for bias or conflict of interest by submitting a written objection to the Title IX Coordinator via email within three (3) calendar days of the Title IX Coordinator issuing the notice. The Title IX Coordinator, in their sole discretion, shall determine whether a new Appeal Officer should be identified. The Title IX Coordinator will forward the appeal and the other Party's response to the Appeal Officer.

The Appeal Officer will evaluate the appeal on the written record and recording of the Hearing, if any, and may seek input from the Title IX Coordinator, Investigator, Decisionmaker, and/or Hearing Officer as deemed appropriate in the Appeal Officer's sole discretion.

The Appeal Officer will issue a written decision on the appeal, including the result and a brief rationale, within (5) five days of the Appeal Officer's receipt of the appeal materials.

The Appeal Officer may take the following actions:

- Upholding the finding of the original Hearing Panel
- Send the case back and request a new hearing by the original Hearing Panel
- Render a different decision.

The Appeal Officer's decision is final. No further appeals are permitted.

## **XV. RECORDKEEPING**

Marywood University will retain records created in connection with a complaint of Prohibited Conduct for seven (7) years. Such records include those relating to any Informal Resolution, the investigation, any determination regarding responsibility (including any audio or audiovisual recording or transcript), any disciplinary sanction imposed, any appeal and any remedies provided to the Complainant designed to restore or preserve access to Marywood's education program or activity. Marywood University will also retain for seven (7) years, its documentation of each notification the Title IX Coordinator receives of information about conduct that reasonably may constitute sex discrimination. Marywood will also retain for seven (7) years all materials used to provide training to all employees, those who serve as Investigators, Decision Makers, Hearing Officers, Appeal Officers, Facilitators of informal resolutions, and the Title IX Coordinator and Deputy Title IX Coordinators.

## **XVI. TRAINING**

Marywood will train all employees promptly upon hire or change of position that alters their duties under Title IX or this policy, and annually thereafter. This

training will not rely on sex stereotypes. This training will include the following topics:

- This Policy and other related policies such as the *Nondiscrimination and Complaint Procedure Policy* and the *Parenting, Pregnancy, or Related Conditions Policy*;
- Marywood University's obligation to address sex discrimination;
- The scope of Marywood University's education program or activity;
- The scope of conduct that constitutes sex discrimination, including the definition of sex-based harassment, as defined by Title IX and this policy;
- The requirements to report and notify Title IX of conduct that reasonably may constitute sex discrimination.

Individuals serving as Marywood University's Title IX Coordinator, Deputy Title IX Coordinator, Investigator, Informal Resolution Facilitator, Hearing Officer, Decision Maker, or Appeal Officer will receive training on all of the above information required of all employees, as well as:

- Training related to their duties under Title IX or this policy;
- This Interim Policy;
- How to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias;
- The meaning and application of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible regardless of relevance.

Individuals who act as Facilitators of informal resolutions will receive additional training on the rules and practices associated with Marywood's Informal Resolution Process and how to serve impartially, including by avoiding conflicts of interest and bias.

The Title IX Coordinator and Deputy Title IX Coordinator will receive additional training on the Title IX requirements for Title IX Coordinators, the grievance process under this Interim Policy, the recordkeeping requirements as provided in Section XV, and any additional training as required to ensure the Title IX Coordinator and Deputy Title XI Coordinators are able to properly respond to reports and coordinate Marywood University's obligations under Title IX.

**Related Policies:**

*Nondiscrimination and Complaint Procedure Policy*  
*Parenting, Pregnancy, or Related Conditions Policy*

**Policy History:**

08/13/2020 - Approved by the President of the University as recommended by the President's Cabinet at their August 13, 2020 meeting.

09/30/2022- The Vice President for Finance and Administration approved the title change to Human Resources Generalist from Executive Director of Human Resources and the update to contact information.

10/20/2022- The Vice President for Finance and Administration approved the title change from Human Resources Generalist to Director of Human Resources.

07/31/2024 - Lisa A. Lori, J.D., President of the University, upon recommendation of the President's Cabinet at their July 31, 2024, meeting, approved revisions to the policy to comply with new federal regulations issued by the United States Department of Education, Office for Civil Rights (OCR).