



Policies and Procedures

# August 2020 - Gender-Based and Sexual Misconduct Policy

Discrimination, Harassment and Retaliation

Diversity, Equity and Inclusion

FOR ALL FACULTY, STUDENTS, EMPLOYEES, AND THIRD-PARTIES

## Statement

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

### **TITLE IX OF THE EDUCATION AMENDMENTS OF 1972**

Title IX of the Education Amendments of 1972 ("Title IX") is a federal civil-rights law that prohibits discrimination on the basis of sex in education programs and activities. Under Title IX, discrimination on

the basis of sex can include sexual harassment, gender-based harassment, sex or gender-based discrimination, sexual assault, and other forms of sexual misconduct, including stalking and intimate partner violence.

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

Title IX Misconduct (i.e., Quid Pro Quo Sexual Harassment; Severe, Pervasive and Objectively Offensive Sexual Harassment; Sexual Assault; and Sex-Based Intimate Partner Violence and Stalking; as defined by and within the scope of Title IX); and

Gender-Based and Sexual Misconduct (i.e. Sexual or Gender-Based Harassment; Other Gender-Based and Sexual Misconduct, Sexual Exploitation, Sex- and Gender-Based Discrimination, Harm/Endangerment, Discrimination, Intimidation, Hazing, Bullying, and Title VII/Fair Housing Act Sexual Harassment; Retaliation).

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

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

This Policy sets forth how the College will proceed once it is made aware of possible Prohibited Conduct. For a formal report including alleged violations of Title IX Misconduct, the College will follow the Formal Grievance Procedures – Process A. For a formal report of alleged violations of Gender-Based and Sexual Misconduct, the College will follow Formal Grievance Procedures –Process B. If a formal report includes allegations from both Title IX Misconduct and Gender Based and Sexual Misconduct, the College will follow Formal Grievance Procedures – Process A. As detailed below, reports can also be assessed for resolution through our Alternative Resolution process.

The Policy is in keeping with our institutional values and is intended to meet our obligations under Title VII of the Civil Rights Act of 1964 ("Title VII"); Title IX of the Education Amendments of 1972 ("Title IX")

and regulations promulgated thereunder in 2020; the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”), as amended by the Violence Against Women Reauthorization Act of 2013 (“VAWA”), with respect to its application to Prohibited Conduct; and other applicable law and regulations including the Massachusetts Campus Safety Act.

## Policy of Nondiscrimination

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

— Approved by the Board of Trustees, Fall 2020

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

[Formal Grievance Procedures Process A](#) or [Process B](#)

[Alternative Resolution](#)

**GLOSSARY OF TERMS**



## Applicable Scope

The core purpose of this policy is the prohibition of all forms of sex- and gender-based discrimination and sexual misconduct. Sometimes, discrimination involves exclusion from or different treatment in activities, such as admission, athletics, or employment. At other times, discrimination takes the form of harassment or, in the case of sex-based discrimination, it can encompass sexual harassment, sexual assault, stalking, sexual exploitation, dating violence, or domestic violence. When an alleged policy violation is reported, the allegations are subject to resolution using the

College's "Process A" or "Process B," as determined by the Title IX Coordinator, and as detailed below.

—Conduct occurring before August 14, 2020 can be resolved using Process B.

When the Respondent is a member of Mount Holyoke College community, a Formal Complaint may be filed and a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of Mount Holyoke College community. This community includes, but is not limited to, students, student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, vendors, contractors, invitees, and campers. The procedures below may be applied to incidents, to patterns, and/or to the institutional culture/climate, all of which may be addressed and investigated in accordance with this Policy.

The College recognizes that reports and/or Formal Complaints under this Policy may include multiple forms of discrimination and harassment as well as violations of other College policies; may involve various combinations of students, employees, and other members of Mount Holyoke College community; and may require the simultaneous attention of multiple College departments. Accordingly, all College departments will share information, combine efforts, and otherwise collaborate, to the maximum extent permitted by law and consistent with other applicable College policies, to provide uniform, consistent, efficient, and effective responses to alleged discrimination and harassment or retaliation.

## Oversight

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

Kijua Sanders-McMurtry  
Vice President for Equity and Inclusion  
Dwight Hall 217  
[413-538-2800](tel:413-538-2800)  
[kijuasm@mtholyoke.edu](mailto:kijuasm@mtholyoke.edu)

### **Title IX Coordinator**

The Title IX Coordinator has the primary responsibility for coordinating the College's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy.

Mikiba W. Morehead  
Interim Title IX Coordinator  
[413-538-3642](tel:413-538-3642)  
[titleixcoordinator@mtholyoke.edu](mailto:titleixcoordinator@mtholyoke.edu)

# Independence and Conflict-of-Interest

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

To raise any concern involving bias, conflict of interest, misconduct, or discrimination by the Title IX Coordinator, contact Dr. Kijua Sanders-McMurtry, the Vice President for Equity and Inclusion. Concerns of bias, misconduct, discrimination, or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

## Reporting

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

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

As used in this Policy, the term "Formal Complaint" means a document or electronic submission (such as by electronic mail or through an online portal provided by Recipient for this purpose) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and requests that Mount Holyoke College investigate the allegations. If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

**TITLE IX TEAM CONTACT INFORMATION**

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding may be made internally to:

- Lauren Gaia (she/her)  
Chief of Staff and Strategic Communications  
Senior Deputy Title IX Coordinator  
Office of Diversity, Equity and Inclusion  
217 Dwight Hall  
[413-538-3636](tel:413-538-3636)  
[lgia@mtholyoke.edu](mailto:lgia@mtholyoke.edu)
- Kijua Sanders-McMurtry, PhD (she/her, they/them)  
Vice President for Equity and Inclusion  
Office of Diversity, Equity and Inclusion  
217 Dwight Hall  
[413-538-3569](tel:413-538-3569)  
[kijuasm@mtholyoke.edu](mailto:kijuasm@mtholyoke.edu)
- Latrina Denson (she/her)  
Associate Dean of Students and Executive Director of Community and Belonging  
Deputy Title IX Coordinator (Students)  
Division of Student Life  
205 Blanchard Hall  
[413-538-2551](tel:413-538-2551)  
[ldenson@mtholyoke.edu](mailto:ldenson@mtholyoke.edu)
- Erica Lemm (she/her)  
Senior Associate Director of Athletics  
Senior Woman Administrator  
Deputy Title IX Coordinator (Athletics)  
Division of Student Life  
112 Kendall Sports and Dance Complex  
[413-538-2276](tel:413-538-2276)  
[elemm@mtholyoke.edu](mailto:elemm@mtholyoke.edu)
- Catie LeBlanc Gilman (she/her)  
Assistant Athletic Trainer  
Deputy Title IX Coordinator (Athletics)  
Division of Student Life  
126A Kendall Sports and Dance Complex  
[413-538-3316](tel:413-538-3316)  
[cleblanc@mtholyoke.edu](mailto:cleblanc@mtholyoke.edu)
- Elizabeth Markovits (she/her)  
Associate Provost and Associate Dean of Faculty  
Professor, Department of Politics  
Deputy Title IX Coordinator (Faculty)  
Office of the Provost and Dean of Faculty  
Mary Lyon 106

413-538-3065

emarkovi@mtholyoke.edu

- Lateisha Rainey (she/her)  
Employee Relations and Talent Development Manager  
Deputy Title IX Coordinator (Staff)  
Department of Human Resources  
Skinner Hall, Room 1  
413-538-3193  
lrainey@mtholyoke.edu

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

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

**Office for Civil Rights (OCR)**

U.S. Department of Education

400 Maryland Avenue, SW

Washington, D.C. 20202-1100

Customer Service Hotline #: (800) 421-3481

Fax: (202) 453-6012

TDD#: (877) 521-2172

Email: OCR@ed.gov

Web: http://www.ed.gov/ocr

**Hampshire County District Attorney's Office**

One Gleason Plaza

Northampton, MA 01060

Main: 413-586-9225

Fax: 413-584-3635

**Equal Employment Opportunity Commission (EEOC)**

John F. Kennedy Federal Building

475 Government Center

Boston, MA 02203

617-565-3200

**Massachusetts Commission Against Discrimination (MCAD)**

Springfield Office

436 Dwight Street

Springfield, MA 01103

413-739-2145

Boston Office  
One Ashburton Place, Room 601  
Boston, MA 02108  
617-994-6000

## Promptness

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

Any time the general timeframes for resolution outlined in Mount Holyoke College's procedures will be delayed, Mount Holyoke College will provide written notice to the parties of the delay, the cause for the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

## Time Limits on Reporting

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

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in Alternative Resolution or Formal Grievance Process, as appropriate.

When notice/complaint is affected by a significant time delay, the College will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of the notice/complaint. Typically, this Policy is only applied to alleged incidents that occurred after August 14, 2020. For alleged incidents that occurred prior to August 14, 2020, previous versions of this Policy will apply. Those versions are available from the Title IX Coordinator.

## Amnesty for Complainants and Witnesses

Mount Holyoke College encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to college officials or participate in grievance processes because they fear that they themselves may be in violation of certain

policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

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

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

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

## Confidentiality/Privacy

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

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

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

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

–For the purpose of this policy, privacy and confidentiality have distinct meanings.

Privacy means that information related to a complaint will be shared with a limited number of Mount Holyoke College employees who “need to know” in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved in the College's response to notice under this policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”). The privacy of employee records will

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

## Mandated Reporting

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

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

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

## Responsible Employees and Formal Notice/Complaints

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

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

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

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

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

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

## Confidential Resources

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

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

### Confidential Resources on Campus

#### **Counseling Service**

Pattie J. Groves Health Center

413-538-2037

Students can receive counseling services free of charge, including crisis intervention and trauma recovery services during the academic year. Year-round emergency services are available 24 hours a day, seven days a week and can be reached by calling the Counseling Service Care and Support Line at 413-538-2037.

**Health Services**

Pattie J. Groves Health Center

413-538-2242

Students can contact Health Services for medical assistance and referrals. Assistance could include connecting with a sexual assault nurse examiner (SANE), providing emergency contraception, testing for sexually transmitted infections or other screening for predatory drugs up to 96 hours after the incident. A clinician is on call 24 hours a day during the academic year.

**Employee Assistance Program**

The Employee Assistance Program (EAP) offers 24-hour free support services for all employees. To access this service visit [www.supportline.com](http://www.supportline.com). To create an account use code "mhc".

**Off-campus Resources****Center for Women and Community (CWC) 24/7 Hotline**

University of Massachusetts Amherst

Main number: 413-545-0800

Toll-free: 888-337-0800

TTY: 413-577-0940 or Mass Relay: 711

CWC is a multicultural campus-based center that offers many services to meet the needs of the diverse cultural and linguistic populations of the University of Massachusetts Amherst, Five Colleges and surrounding Hampshire County community. Services include crisis counseling in individual and group settings for all survivors of sexual and relationship violence.

**SAFEPLAN**

This statewide, court-based program provides specially trained and certified advocates to help survivors of domestic violence, sexual assault and stalking who are seeking protection. SAFEPLAN provides services to survivors free of charge. Advocates help survivors develop personalized safety plans, obtain 209A restraining orders (also called protective orders) and 258E harassment prevention orders from the court, and accompany the survivors to protective-order hearings.

- SAFEPLAN Office — Hampden County  
Womanshelter/Compañeras, Inc.  
PO Box 1099  
Holyoke, MA 01040  
413-538-9717
- SAFEPLAN Hampshire County  
YWCA of Western Mass., Inc  
One Clough Street

Springfield, MA 01108

413-732-3121

### **Safe Passage**

Safe Passage offers a variety of programs designed to support survivors of domestic violence. Services include support and advocacy; individual and group counseling; advocacy related to housing, welfare, medical and educational issues; safety planning; support for children who have witnessed violence; specialized services for immigrants; and legal assistance with divorce, child custody, and other probate and family issues. Safe Passage also has a 24-hour, confidential, toll-free hotline for crisis intervention and emotional support, and an emergency shelter.

Safe Passage

43 Center Street, Suite 304

Northampton, MA 01060

Main: 413-586-1125

Hotlines: (voice) 413-586-5066; (TTY/TTD) 888-345-5282

Fax: 413-586-3742

[info@safepass.org](mailto:info@safepass.org)

## **Supportive Measures**

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

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

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

The College will maintain the privacy of the supportive measures, provided that privacy does not impair the College's ability to provide the supportive measures. The College will act to ensure as minimal an academic impact on the parties as possible. In the event a student or employee obtains a court-ordered protective order, they are to notify the Title IX Coordinator immediately. Upon notice of a court-ordered protective order, the Title IX

Coordinator will implement appropriate on-campus supportive measures to accommodate the court-ordered protective order. The College will implement measures in a way that does not unreasonably burden the other party. These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration support
- Student financial aid counseling
- Education to the community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Implementing contact limitations (no contact orders) between the parties
- Referral or assistance with obtaining a court-issued protective order
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass orders
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders or other restrictions may be referred to appropriate student or employee conduct processes for enforcement or added as collateral misconduct allegations to an ongoing complaint under this Policy.

## **Violence Risk Assessment and Emergency Removal**

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

- Emergency removal of a Respondent on the basis of immediate threat to physical health/safety;

- Whether the Title IX Coordinator should pursue/sign a formal complaint absent a willing/able Complainant;
- Whether to put the investigation on the footing of incident and/or pattern and/or climate;
- To help identify potential predatory conduct;
- To help assess/identify grooming behaviors;
- Whether it is reasonable to try to resolve a complaint through Alternative Resolution, and what modality may be most successful;
- Whether to permit a voluntary withdrawal by the Respondent;
- Whether to impose transcript notation or communicate with a transfer Recipient about a Respondent;
- Assessment of appropriate sanctions/remedies (to be applied post-hearing); and/or
- Whether a Clery Act Timely Warning or Trespass Order needed.

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

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

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

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

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

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested in a

timely manner objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so. There is no appeal process for emergency removal decisions.

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

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

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

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

When the Respondent is an employee, or a student employee, accused of misconduct in the course of their employment, existing provisions for interim action are applicable instead of the above emergency removal process.

## **Online Harassment and Misconduct**

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

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

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites; sharing inappropriate content via social media; unwelcome sexual or sex-based messaging; distributing, or threatening to distribute, nude or semi-nude photos or recordings; breaches of privacy; or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of Mount Holyoke College community.

## **Disability Accommodations**

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

Anyone needing such accommodations or support should contact the Director of Accessible Education and 504 Coordinator or the Office of Disability Services for students or Human Resources for employees, who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

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

## **When a Complainant Does Not Wish to Proceed**

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

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

The Title IX Coordinator's decision should be based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires the College to pursue formal action to protect the community. A compelling risk to health and/or safety may result from evidence of patterns

of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. Mount Holyoke may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

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

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

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

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

In cases in which the Complainant requests no formal action and the circumstances allow the College to honor that request, the College will offer Alternative Resolution options supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.

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

## **Federal Timely Warning Obligations**

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

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

danger.

## False Allegations and Evidence

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

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

## Federal Statistical Reporting Obligations

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

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

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

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

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

# Jurisdiction

This Policy applies to Mount Holyoke College's education program and activities\*, to conduct that takes place on property owned or controlled by Mount Holyoke College, at College-sponsored events, and in buildings owned or controlled by Mount Holyoke College's recognized student organizations. The Respondent must be a member of Mount Holyoke College's community in order for this Policy to apply.

\*Which includes Mount Holyoke College's employees' work environment.

This Policy can also be applicable to the effects of off-campus misconduct that effectively deprives a person of access to the College's education program or activities. Mount Holyoke College may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial College interest.

Regardless of where the conduct occurred, Mount Holyoke College will address notice/complaints to determine whether the conduct occurred in the context of its employment or education program or activity and/or has continuing effects on campus (including virtual learning and employment environments) or in an off campus sponsored program or activity. A substantial College interest includes:

1. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law.
2. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student, employee, or other individual.
3. Any situation that significantly impinges upon the rights, property, or achievements of others, significantly breaches the peace, and/or causes social disorder.
4. Any situation that substantially interferes with the educational interests or mission of Mount Holyoke College.

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

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

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

All vendors serving Mount Holyoke College through third-party contracts are subject to the policies and procedures of their employers and/or to these Policies and procedures to which their employer has agreed to be bound by their contracts.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to pursue action under that institution's policies.

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

## Prohibited Conduct

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

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

This Policy covers nondiscrimination in both employment and access to educational opportunities. Therefore, any member of Mount Holyoke College community whose acts deny, deprive, or limit the educational or employment, or residential and/or social access, benefits, and/or opportunities of any member of Mount Holyoke College community, guest, or visitor on the basis of that person's actual or perceived protected characteristics listed above, is in violation of this Policy.

When brought to the attention of Mount Holyoke College, any such discrimination will be promptly and fairly addressed and remedied by Mount Holyoke College according to the appropriate applicable grievance

process described below.

## TITLE IX MISCONDUCT

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

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

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved. Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

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

–Including gender identity, gender expression, sexual orientation, and sex stereotypes.

### 1. **Quid Pro Quo:**

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

### 2. **Sexual Harassment:**

- unwelcome conduct,
- determined by a reasonable person,
- to be so severe, and
- pervasive, and,
- objectively offensive,
- that it effectively denies a person equal access to the College's education program or activity.  
–Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is below the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

### 3. **Sexual Assault**, defined as:

- Any sexual act directed against a Complainant,  
–This would include having another person touch you sexually, forcibly, and/or without their

consent.

- without their consent, or
- instances in which the Complainant is incapable of giving consent.
- A “sexual act” is specifically defined by federal regulations to include one or more of the following:
  - Rape:
    - Penetration.
    - no matter how slight,
    - of the vagina or anus with any body part or object, or
    - oral penetration by a sex organ of another person,
    - without their consent,
    - including instances where they are incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
  - Sodomy:
    - Oral or anal sexual intercourse with a Complainant,
    - forcibly, and/or
    - against their will (non-consensually), or
    - not forcibly or against their will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
  - Sexual Assault with an Object:
    - The use of an object or instrument to penetrate,
    - however slightly,
    - the genital or anal opening of the body of the Complainant,
    - forcibly, and/or
    - against their will (non-consensually), or
    - not forcibly or against their will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
  - Fondling:
    - The touching of the private body parts of the Complainant (buttocks, groin, breasts),
    - for the purpose of sexual gratification,
    - forcibly, and/or
    - against their will (non-consensually), or
    - not forcibly or against their will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or

permanent mental or physical incapacity.

- Incest:
  - Non-forcible sexual intercourse,
  - between persons who are related to each other,
  - within the degrees wherein marriage is prohibited by Massachusetts law.
- Statutory Rape:
  - Non-forcible sexual intercourse,
  - with a person who is under the statutory age of consent of 16.

1. **Dating Violence**, defined as:

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

2. **Domestic Violence**, defined as:

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

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

1. **Stalking**, defined as:

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

For the purposes of this definition—

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

The College also has a Policy on [Staff Family and Other Close Relationships](#) as well as [Staff-Student Romantic and Sexual Relationships](#).

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

**FORCE, COERCION, CONSENT, AND INCAPACITATION**



**GENDER-BASED AND SEXUAL MISCONDUCT**



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

**1. Sex or Gender-Based Harassment**

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

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

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

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

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

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

- Unwelcome sexual advances, whether they involve physical touching or not.
- Sexual innuendos, jokes, written or verbal references to sexual conduct, gossip regarding one's own sex life, comments on an individual's body, discussion or inquiry about an individual's sexual orientation, gender identity, activity, deficiencies or prowess.

- Displaying or circulating sexually suggestive objects, pictures, videos or cartoons, including via electronic communications.
- Threats or insinuations that a person's employment or wages, academic grade, promotional opportunities, classroom work assignments or other conditions of employment or academic life may be adversely affected by not submitting to sexual advances.
- Refusal to use or consistent misuse of someone's stated name or pronouns.
- Outing someone as transgender with the intent to cause harm.
- Bullying or hazing based on sex or gender:
  - Bullying is the repeated use by one or more people of a written, verbal or electronic expression or a physical act or gesture or any combination thereof, directed at another person that causes physical or emotional harm to the victim or damage to the victim's property, places the victim in reasonable fear of harm to self or damage of personal property, creates a hostile environment at the College for the victim, infringes on the rights of the victim at the College, or materially and substantially disrupts the education process or orderly operation of the College.
  - Hazing is any conduct or methods of initiation into student organizations, whether on public or private property, that willfully or recklessly endanger the physical or mental health of any person. Such conduct shall include whipping, beating, branding, forced calisthenics, exposure to weather, forced consumption of any food, liquor, beverage, drug or other substance, or any other brutal treatment of forced physical activity that is likely to adversely affect the physical health or safety of any person, or that subjects the person to extreme mental stress, including extended deprivation of sleep or rest or extended isolation.

**2. Other Gender-Based and Sexual Misconduct.** In addition, the College additionally prohibits the following offenses as forms of discrimination when the act is based upon the Complainant's actual or perceived sex, gender, sexual orientation, gender identity, gender expression, or pregnancy.

- a. **Sexual Exploitation** defined as: taking non-consensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being exploited, and that conduct does not otherwise constitute sexual harassment under this policy. Examples of Sexual Exploitation include, but are not limited to:
  - Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
  - Invasion of sexual privacy.
  - Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to

hide in a closet and observe sexual activity; or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography

- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually-transmitted disease (STD) or infection (STI), without informing the other person of the infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity
- Engaging in sex trafficking
- Creation, possession, or dissemination of child pornography
- Knowingly making an unwelcome disclosure of (or threatening to disclose) an individual's sexual orientation, gender identity, or gender expression
- **b. Sex and Gender-Based Discrimination** defined as conduct that is based upon an individual's sex, gender, sexual orientation, gender identity, gender expression, or pregnancy that:
  - Adversely affects a term or condition of an individual's employment, education, living environment, or participation in a College program or activity; and/or
  - Is used as the basis for or a factor in decisions affecting that individual's employment, education, living environment, or participation in a program or activity.
  - Some examples of conduct that may constitute prohibited Sex or Gender Based Discrimination may include, but are not limited to:
    - Denying a person access to an educational or employment program based on that person's sex, sexual orientation, gender identity, gender expression, or pregnancy;
    - Denying raises, benefits, promotions, and/or other conditions of employment on the basis of a person's sex, sexual orientation, gender identity, gender expression, or pregnancy; and/or
    - Preventing any person from using College facilities or services because of that person's sex, sexual orientation, gender identity, gender expression, or pregnancy.

- c. **Harm/Endangerment**, defined as:
  - threatening or causing physical harm;
  - extreme verbal, emotional, or psychological abuse; or
  - other conduct which threatens or endangers the health or safety of any person or damages their property.
- d. **Discrimination**, defined as:
  - actions that deprive, limit, or deny
  - other members of the community
  - of educational or employment access, benefits, or opportunities,
  - including disparate treatment.
- e. **Intimidation**, defined as:
  - implied threats or
  - acts that cause the Complainant reasonable fear of harm.
- f. **Hazing**, defined as:
  - acts likely to cause physical or psychological harm or social ostracism
  - to any person within Mount Holyoke College community,
  - when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in the Hazing Policy).
- g. **Bullying**, defined as:
  - repeated and/or severe aggressive behavior
  - that is likely to intimidate or intentionally hurt, control, or physically or mentally diminish the Complainant,
  - that is not speech or conduct that is otherwise protected by the First Amendment.
- h. **Title VII/Fair Housing Act (FHA) Sexual Harassment** applies to situations where an employee is subjected to workplace sexual harassment or where a situation involves a residential Complainant in College-provided housing.
  - Unwelcome verbal, written, graphic, and/or physical conduct;
  - that is severe or pervasive and objectively offensive;
  - on the basis of sex/gender, that
  - unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities.

The same definitions of Force, Coercion, Consent, and Incapacitation as defined above apply to the definitions of Gender-Based and Sexual Misconduct. The College reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this Policy. The most serious offenses are likely to result in suspension/expulsion/termination.

## Retaliation

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

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

The College and any member of the Mount Holyoke College community are prohibited from taking or attempting to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy and procedure.

Charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

## Sanctions

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

when sanctioning can be found in Formal Grievance Procedures – Process A and Formal Grievance Procedures – Process B.

**STUDENT SANCTIONS**

+

**EMPLOYEE SANCTIONS**

+

## Preservation of Evidence

The preservation of evidence in incidents of sexual assault and stalking is critical to potential criminal prosecution and to obtaining restraining/protective orders and is particularly time sensitive. Mount Holyoke College will inform the Complainant of the importance of preserving evidence by taking actions such as the following:

### Sexual Assault

- Seek forensic medical assistance at the Holyoke Medical Center, ideally within 120 hours of the incident (sooner is better).
- Avoid urinating, showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
- If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
- If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or secure evidence container.
- Seeking medical treatment can be essential even if it is not for the purposes of collecting forensic evidence.

### Stalking

- Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number.
  - Make a secondary recording of any voice messages and/or save the audio files to a cloud server.
  - Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, Facebook).
- Save copies of e-mail and social media correspondence, including notifications related to account access alerts.
- Take timestamped photographs of any physical evidence including notes, gifts, etc. in place when possible.

- Save copies of any messages, to include those showing any request for no further contact.
- Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible.

During the initial meeting between the Complainant and the Title IX Coordinator, the importance of taking these actions will be discussed, if timely.

## **Failure to Comply with Sanctions and/or Responsive Actions**

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-maker(s) (including the Appeal Decision-makers).

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the College and may be noted on a student's official transcript.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

## **Long-Term Remedies/Other Actions**

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the Prohibited Conduct, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation accommodations

- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedies owed by the College to the Respondent to ensure no effective denial of educational access.

The College will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair the College's ability to provide these services.

## Recordkeeping

Mount Holyoke College will maintain for a period of seven years records of:

1. Each Gender-Based and Sexual Misconduct investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;
3. Any remedies provided to the Complainant designed to restore or preserve equal access to the College's education program or activity;
4. Any appeal and the result therefrom;
5. Any Alternative Resolution and the result therefrom;
6. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Alternative Resolution process. The College will make these training materials publicly available on the Mount Holyoke College website; and
7. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
  1. The basis for all conclusions that the response was not deliberately indifferent;
  2. Any measures designed to restore or preserve equal access to the College's education program or activity; and
  3. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

The College will also maintain any and all records in accordance with state and federal laws.

# Revision of this Policy and Procedures

This Policy and the Procedures below (Formal Grievance Procedures – Process A, Formal Grievance Procedures – Process B, and Alternative Resolution) supersede any previous policy(ies) addressing harassment, sexual misconduct, discrimination, and/or retaliation and will be reviewed and updated annually by the Title IX Coordinator. The College reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate the academic schedule. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

*This Policy and Procedures are effective September 6, 2023.*

**Established:** August 2011

**Date Last Revised:** September 4, 2023

**Approved by:** Title IX Coordinator

**Responsible Office:** Diversity, Equity and Inclusion

**Responsible Senior Staff Member:** Title IX Coordinator or designee

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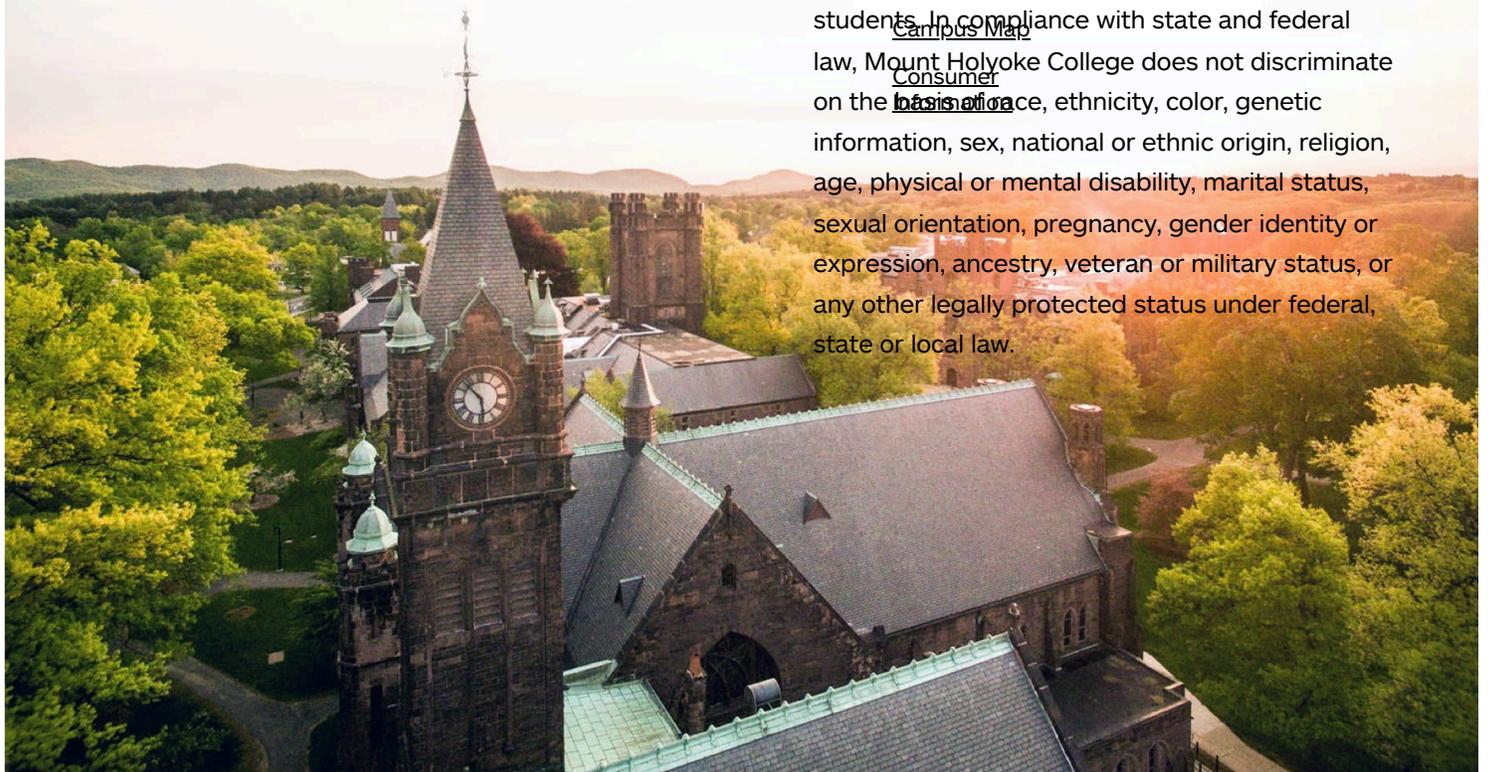
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## **NON-DISCRIMINATION STATEMENT**

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



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