

# MANSFIELD UNIVERSITY

## SEXUAL DISCRIMINATION and MISCONDUCT POLICY

### TITLE IX POLICY AND COMPLAINT PROCEDURES

#### I. INTRODUCTION

Mansfield University is committed to providing a safe and secure educational, residential and employment environment, free from discrimination and harassment, including discrimination based on sex. Sexual discrimination encompasses all forms of sexual misconduct: sexual harassment, sexual assault, sexual violence, domestic violence, dating violence, sexual exploitation, stalking and any sexual activity conducted without consent. Accordingly, Mansfield University will not tolerate any form of sexual misconduct and provides this policy to ensure its employees, students, and other members of the University community are not subjected to sexual discrimination in any form.

Anyone can experience or be a perpetrator of sexual misconduct, regardless of gender or sexual orientation. Perpetrators can be anyone: a stranger, current or former intimate partner, a long-time acquaintance or new acquaintance, a contractor or guest of the University, a student, a professor, or a staff member. When the victim or perpetrator is a student, the violation falls under Title IX [20 U.S.C. § 1681 and federal regulations which mandate that: **“No 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 educational program or activity receiving federal financial assistance.”** In addition to Title IX, this policy addresses the requirements of other statutes and regulations such as Violence Against Women Act, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, Campus SaVE Act, Title VI, Title VII, Section 504, ADEA, the ADA, the federal Civil Rights Act and the Pennsylvania Human Relations Act. Sex or gender based discrimination, including all forms of sexual misconduct, is also a violation of the Mansfield University Student Code of Conduct and the Mansfield University Non-Discrimination Policy and Discrimination Complaint Procedures.

For information regarding civil rights or grievance procedures and for inquiries concerning the application of Title IX and its implementing regulations, contact Title IX Coordinator. (Information at <http://www.mansfield.edu/title-ix>) Additionally, inquiries concerning Title IX and its implementing regulations can be made to the U.S. Department of Education, Office of Civil Rights, Lyndon Baines Johnson Department of Education Building, 400 Maryland Avenue SW, Washington DC 20202-1100, Phone: 800.421.3481, Fax: 202.453.6012, TDD: 800.877.8339.

Additional resources are listed in the final pages of this policy and can be accessed on line at [Title IX Resources](#).

## II. PURPOSE

This policy has been developed to:

- Educate the campus community about shared values and expectations with respect to sexual behavior and obtaining consent for sexual activity;
- Provide definitions of sexual misconduct and consent;
- Provide information about the structure, tools and guidance to assist any University community member who has learned of, experienced or been affected by sexual misconduct;
- Describe the rights of those who report sexual misconduct, those who are the victims of sexual misconduct and those who are accused of perpetrating sexual misconduct;
- Communicate the reporting obligations of University community members;
- Ensure compliance with applicable state and federal regulations;
- Identify campus and community resources for those who wish to report sexual misconduct and for students who have been accused of sexual misconduct;
- Inform students and employees of the Mansfield University procedures for addressing reports of sexual misconduct and clarify the difference between the University procedure and the criminal process that might be pursued through law enforcement;
- Provide information about confidentiality and the role of the Title IX Coordinator;
- Describe types and forms of interim measures which are available and may be imposed to ensure the safety of students and employees and other campus community members;
- Describe the training regarding the reporting and prevention of sexual misconduct offered to University community members.

## III. THE POLICY

It is the policy of Mansfield University to comply with all applicable statutes and regulations regarding the prohibition, reporting and prevention of sexual discrimination, including Title IX of the Education Amendments of 1972 which expressly prohibits discrimination based on sex in the University's educational programs and activities. **Sexual misconduct is defined in this policy as a form of sexual discrimination and is therefore expressly forbidden.** Mansfield University is committed to ensuring that, except as otherwise stated herein and to the extent allowed by applicable statutes and regulations, reports of sexual misconduct reported by an individual are promptly addressed to determine what occurred, interim steps are taken to protect the individual, there is a timely response to end any violence, and action is taken to prevent its recurrence and eliminate the effects of any discrimination. It is important to note that Title IX is not limited to women, but protects the rights of both women and men and requires that all receive fair and equal treatment in all areas of education.

It is imperative that all Mansfield University community members adhere to University policies and local, state and federal laws to ensure an environment free from discrimination based on sex. This policy applies to conduct occurring on the main campus, the Sayre campus, and at any University-sanctioned events or programs that take place off-campus, including internships and study-abroad programs, programs while in transit or if sponsored at other locations. In addition, this policy will apply if sexual discrimination occurring off-campus adversely affects the mission of the University or the health, safety, or welfare of members of the University and local community.

All EMPLOYEES, unless prohibited from doing so by statutory privilege (discussed on page 9) are required to report complaints of sexual misconduct promptly and in accordance with this Policy. Persons found to be in violation of this Policy and/or the related policies listed in the paragraph below, will be subject to disciplinary action up to and including expulsion for students and termination for employees. Under this policy, all employees (other than those statutorily barred) and all student employees or volunteers who have the responsibility for the welfare of students are considered EMPLOYEES.

This policy works in concert with the University's Non-discrimination Policy and the Student Code of Conduct, and will be revised from time to time as necessary to reflect changes in applicable law. If and to the extent any existing University policy or code conflicts with this Policy, this Policy controls.

#### **IV. SEXUAL MISCONDUCT DEFINED**

The term "Sexual Misconduct" at Mansfield University covers a variety of sexual or gender-based acts that are perpetrated against another individual without consent or when an individual is unable to freely give consent. Sexual misconduct includes but is not limited to, the following prohibited behaviors;

**Sexual Harassment** – Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature whether intentional or not, when:

- Submission to the unwelcome conduct of a sexual nature is made, whether explicitly or implicitly, a term or condition of an individual's employment, evaluation of academic work, status in a course or program or any aspect of the University's programs or activities; OR
- Submission to or rejection of the unwelcome conduct of a sexual nature by an individual is used as the basis for an academic or employment-related decision affecting the individual, e.g. promotion, grade assignment, sports team selection; OR
- The unwelcome conduct of a sexual nature is so severe, persistent, pervasive and objectively offensive as to substantially limit or interfere with an individual's work or academic performance, participation in extracurricular activities or equal access to the University's resources and opportunities; OR
- Such contact creates an intimidating, hostile, or abusive living, working or educational environment.

Sexual harassment is further defined as conduct that focuses on a person's sexuality or gender, rather than on their contributions as a student, employee or member of the University community. Sexual harassment encompasses a full range of coercive, unwelcome behavior from subtle psychological force to physical acts. Sexual harassment can happen to anyone, regardless of age, gender, race, sexual orientation, social class, ability, religion or appearance.

**Sexual Assault** – is any type of sexual conduct or contact that occurs without the explicit consent of the recipient.

- Non-consensual sexual contact (or attempts to commit same) is: an intentional sexual touching, however slight, with any object or body part by a person of any gender or sexual orientation that is without consent.

- Non-consensual sexual intercourse/penetration (or attempts to commit same) is: any sexual penetration (anal, oral, vaginal), however slight, with any object or body part by a person of any gender or sexual orientation that is without consent.

**Sexual Exploitation** – occurs when a person takes non-consensual, unjust or abusive sexual advantage of another for his/her own sexual gratification, financial gain, personal advantage or benefit, or to benefit or advantage someone other than the one being exploited and that behavior does not otherwise constitute one of the other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

- Invasion of sexual privacy
- Prostituting another person
- Non-consensual video, photography or audio-taping of sexual activity
- Non-consensual distribution of a video, photography or sound recording of sexual activity
- Going beyond the boundaries of consent (such as letting someone hide in a closet to watch you having consensual sex)
- Engaging in voyeurism
- Knowingly transmitting an STD or HIV to another person
- Exposing one’s genitals in non-consensual circumstances or inducing another to expose his/her genitals
- Inducing incapacitation through alcohol or drugs in order to sexually assault another person (whether or not sexual contact actually takes place)
- Sexually based bullying

**Stalking** – is defined as engaging in a course of conduct directed at a specific person or persons that would cause a reasonable person to (1) fear for his or her safety or the safety of others; or (2) suffer substantial emotional distress. Stalking includes cyber-stalking which involves using electronic media such as cell phones, social media sites, the internet, blogs, etc. to make unwelcome contact with another individual.

**Dating Violence** – (sometimes referred to as intimate partner violence) is violence committed by a person who is or has been in a sexual, dating, or other relationship of a romantic or intimate nature with the victim. The existence of such a relationship is determined based on the length of the relationship, the type of the relationship, and the frequency of the interaction between the persons involved in the relationship.

**Domestic Violence** – is violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or someone similarly situated to a spouse, or by any other person from whom the victim is protected under the domestic or family violence laws.

## V. CONSENT DEFINED

“Consent” means words or actions that demonstrate an affirmative, unambiguous, knowing and voluntary agreement to engage in sexual activity. Consent must be informed and freely given.

- Consent is invalidated if it is forced, coerced or obtained by threat.

- Consent is invalidated when a person is physically and/or mentally incapable of giving consent. **Someone who is incapacitated CANNOT consent.** For example, someone who is incapacitated as a result of alcohol or other drug consumption (voluntarily or involuntarily), or who is unconscious, sleeping, unaware or otherwise helpless, coerced or intimidated, or suffering from a psychological health condition, is incapable of giving consent.
- Consent is an active, ongoing process – it can be withdrawn at any time. When consent is withdrawn or not verbally agreed upon, the sexual activity **MUST STOP IMMEDIATELY.**
- Consent for one sexual act does not imply consent for another subsequent act.
- Conduct will be considered “without consent” if there is no clear consent, verbal or nonverbal, given. Because sexual misconduct is defined in part as sexual activity that is undertaken without consent, each participant must obtain and give consent to each sexual act.
- Consent is required each and every time there is sexual activity.
- Consent or lack of consent can be expressed by words, actions or both. Silence or absence of resistance does not constitute or imply consent. Physical resistance is not required to communicate lack of consent or the withdrawal of consent.
- Use of agreed-upon forms of communication such as gestures or safe words is acceptable, but must be discussed and verbally agreed upon by all participants before sexual activity occurs.
- Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.
- Consent in the past does not imply future consent.
- Consent cannot be given by a minor (anyone under the age of 16).
- Consent cannot be inferred; it must be clear and unambiguous. The absence of “no” or “stop” or similar words OR the existence of a prior or current sexual relationship or sexual activity does not mean consent has been given.
- Bodily movement and non-verbal responses such as moans are not consent; silence, passivity or lack of active resistance is not consent.
- Seductive dancing, flirting, or sexy and/or revealing clothing does not imply consent.
- The person(s) who initiate(s) a new level of sexual activity is responsible for asking for consent. Being intoxicated does not diminish one’s responsibility to obtain consent.
- Under this policy, “no” always means “no”, but “yes” may not always mean “yes”. Anything but a clear, knowing and voluntary consent to any sexual activity is considered a “no”.

## **VI. RISK REDUCTION TIPS AND STRATEGIES**

With no intention to blame the Complainant, and with recognition that only the individuals who commit sexual misconduct are responsible for those actions, these suggestions may nevertheless help to reduce the risk of experiencing a non-consensual sexual act. Provided below are suggestions to avoid being the victim of sexual misconduct:

- When engaging in sexual activity, make limits known as early as possible.
- Tell a sexual aggressor “NO” clearly and firmly.
- Find someone nearby and ask for help.
- Take affirmative responsibility for alcohol intake/drug use and acknowledge that alcohol/drugs lower sexual inhibitions and may make an individual appear more vulnerable to someone who views a drunk or high person as a sexual opportunity.

- Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help reduce your risk for a complaint of sexual misconduct being made against you:

- Clearly communicate your intentions to your sexual partner and give him/her a chance to clearly relate his/her intentions to you.
- Understand and respect personal boundaries.
- Don't make assumptions about consent; about someone's sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity then you DO NOT have consent.
- Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
- Don't take advantage of someone's drunkenness or drugged state.
- Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don't abuse that power.
- Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
- Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.

## **VII. REPORTING AN INCIDENT OF SEXUAL MISCONDUCT**

Mansfield University strongly encourages prompt reporting of sexual misconduct but recognizes that an individual who experiences sexual misconduct (Victim/Complainant) has the right to decide whether to make

- a criminal report with the University Police Services and Safety department or an external police agency,
- a judicial report with the University's Chief Conduct Officer (when a student is the perpetrator),
- a sexual discrimination report with the Social Equity Officer,
- a report to the Title IX Coordinator,
- a report with a request for privacy or no further action,
- an anonymous report, OR
- no report at all.

### **Medical Care and Preserving Evidence**

An individual who has been the victim of sexual misconduct is urged to seek medical care as soon as possible. Even if a victim doesn't want to report a sexual assault or other form of sexual violence, medical attention is still needed to check for injuries, sexually transmitted infections or pregnancy.

Victims of sexual assault or other sexual violence are strongly encouraged to undergo a forensic examination within 72 hours by a trained professional. Forensic examinations are not available at the University's Health Center however the forensic examination can be administered at a hospital. The hospital nearest to campus is Soldiers and 'Sailors Hospital in Wellsboro, Pennsylvania. The University's Health Center Staff and/or University Police Services and Safety officers can assist in arranging transportation to the hospital if needed. In urgent situations, contact local emergency services by calling 911.

In addition to receiving proper medical attention, consider the following:

- Time is a factor in the collection of evidence. Post-assault forensic evidence (commonly referred to as a "rape kit") is best collected within 72 hours of the assault. Victims should go to the hospital as soon as possible after the assault.
- If a victim goes to the hospital, local or campus police may be called, but s/he is not obligated to talk to the police or to pursue prosecution against the perpetrator.
- A trained victim's advocate from the University's Women's Center can accompany the victim to the hospital to provide support and answer questions on what to expect. The advocates are available 24/7 and can be reached by calling the telephone numbers listed on the [Women's Center website](#).
- Victims should not bathe or douche before the forensic examination as this will destroy evidence that supports a legal case against a perpetrator.
- The hospital will keep the clothes worn during the sexual assault/violence as evidence. Victims should bring a change of clothes to the hospital, or take the clothes s/he was wearing during the assault in a brown paper bag to the hospital.
- Physical evidence can also be collected from sheets or towels used during the assault; campus or local police officers may collect these items for evidence which can assist in pursuing criminal charges should the victim decide to press charges.
- If the use of "date rape" drug is suspected, the hospital can take a urine sample for evidence collection.
- For more information about evidence collection go to: [www.rainn.org/get-information/sexual-assault-recovery/rape-kit](http://www.rainn.org/get-information/sexual-assault-recovery/rape-kit)

Medical attention does not need to occur at a hospital when forensic evidence is no longer available or if the assault/violence occurred more than 72 hours prior. Student victims may seek care at University Health Services located in Spruce Hall.

### **Title IX Reporting Responsibilities:**

With the exception of those individuals who are statutorily barred from reporting without the victim's or client's express consent or the likelihood of imminent danger (such as physicians, licensed mental health providers, and ordained clergy), **it is the responsibility of all Mansfield University employees, including faculty, staff and administrators, and student employees and volunteers who have responsibility for the welfare of students (collectively referred to as EMPLOYEES), to report sexual misconduct to the Title IX Coordinator to ensure a safe environment for living, learning and working.** Among those students and volunteers with responsibility for the welfare of students are Resident Assistants, Student Ambassadors, tutors, mentors and any others whose work assignment or duties involve direct contact with students. All other Mansfield University community members, such as guests and visiting lecturers, are encouraged to report information about incidences of sexual misconduct to the Title IX Coordinator.

### **Making a Report:**

- Anyone alleging a violation of this Policy, the Student Code of Conduct or the Non-Discrimination Policy can make a report whether they are a victim, witness or concerned third party. The individual filing the report is considered the **Complainant**.
- A Complainant may make a report with the University (through the Title IX Coordinator, the Social Equity Officer or the Chief Conduct Officer), may make a report with the Campus Police Services and Safety Office or local police authorities to pursue criminal action, may do one but not the other, or may do both.
- Making a report does not mean that the Complainant has to be involved in a police investigation, go to court, or talk to the perpetrator.
- A victim or witness who is under the influence of alcohol or drugs at the time of the sexual misconduct incident generally will NOT face disciplinary charges from the University or from the University's Police Services and Safety department for underage drinking or drug use. A student who admits to violating the provisions of the Student Code of Conduct relating to alcohol, drugs and other controlled substances in the course of reporting an incident as a victim of sexual misconduct or when seeking medical assistance will not be charged for those violations. This includes those reporting on another's behalf and who stay with that individual. Limited amnesty may also be given, at the sole discretion of the Chief Conduct Officer, to students admitting to other violations in these circumstances. The University may follow up on such admissions in an informal manner.
- A Victim has the right to request a victim advocate to go with him/her when making a report with the police or with the University. **Call 570.662.4939 or visit the Women's Center (Alumni 321) to request a victim advocate.**
- The intentional making of a false report will not be tolerated. It is a violation of this Policy and the related [Mansfield University Student Code of Conduct](#) and the [University Non-Discrimination Policy](#) to make an intentionally false report of any policy or code violation, and it may also violate state criminal laws and civil defamation laws.

### **Privileged Communication, Confidentiality, Mandatory Reporting Requirements and Privacy**

Mansfield University encourages victims of sexual misconduct to report what happened, so s/he can get needed support and the University can respond appropriately. It is important to note however, that University EMPLOYEES, campus community members and other individuals off-campus have different abilities or requirements with respect to maintaining a Victim/Complainant's confidentiality.

The various reporting and confidentiality disclosure options are described below to allow students to make informed choices about where to seek assistance if they are the victim of sexual misconduct.



## Privileged Communication

Some University employees and others have privileged communication status – these individuals, including physicians, licensed mental health providers, clergy, etc., can offer confidentiality, accepting a report of sexual misconduct and sharing advice, without any obligation to tell anyone unless the Complainant gives his/her express consent, EXCEPT in cases involving a minor (under 18 years of age) or in the likelihood of imminent harm to the victim or others.

If an individual desires that the details of a sexual misconduct incident be kept confidential, the individual should speak with an on-campus licensed counselor, presently available only in the Academic and Human Development department (570.662.4695).

Those licensed counselors on the Mansfield University campus are:

**Jolene Meisner**

Licensed Counselor

140 South Hall

570.662.4696

[jmeisner@mansfield.edu](mailto:jmeisner@mansfield.edu)

**Doug Candelario**

Licensed Counselor

138 South Hall

570.662.4697

[dcandela@mansfield.edu](mailto:dcandela@mansfield.edu)

**Annette Dutchess**

Licensed Counselor

138 South Hall

570.662.4697

[adutches@mansfield.edu](mailto:adutches@mansfield.edu)

Talking to them is considered a privileged communication and the licensed counselor is not required to report any information about an incident to the Title IX Coordinator or other individual/agency without the individual's permission EXCEPT in cases involving a minor (under 18 years of age) and/or a threat of imminent harm, as explained above. These counselors are available to help free of charge and can be seen on an emergency basis. In addition, Complainants may speak to physicians and ordained clergy off campus who will also treat the report as a privileged communication (with the same exceptions mentioned above). The counselors will be able to assist the victim in receiving protection and support such as victim advocacy, academic support or accommodations, changes to living accommodations or course and working schedules.

However, in cases which do not involve a minor or a threat of imminent harm, information about an incident of sexual misconduct shared with an individual with privileged communication status will be reported to the University ONLY with the Complainant's authorization. In the absence of a report, an investigation into the incident or disciplinary action against the alleged perpetrator cannot be conducted by the University. A victim who at first requests confidentiality may later decide to file a complaint with the University or report the incident to campus or local law enforcement, having the incident fully investigated.

## Mandatory Reporting Requirements

An EMPLOYEE who receives a report, witnesses or learns of an incident of sexual misconduct is required to immediately share the information, including the identities of the victim and alleged perpetrator, with the Title IX Coordinator. Under this policy, all employees (other than those statutorily barred as described above) and all student employees or volunteers who have the responsibility for the welfare of students are considered EMPLOYEES.

## Privacy

Mansfield University is committed to protecting the privacy of all individuals involved in a report of sexual misconduct; accordingly, in any report made under this Policy, every effort will be made to protect the privacy interests of all individuals involved, balanced with the need for a thorough review of the allegations.

Protecting privacy generally means sharing information about a report of sexual misconduct with a limited number of individuals who have specific roles in handling Title IX matters. These individuals are provided information on a “need to know” basis in order to participate in the review, investigation or resolution of the report. Although not bound by confidentiality, these individuals are trained to be discreet and respect the privacy of all parties.

- When a victim or other Complainant tells an EMPLOYEE about an incident of sexual misconduct, the victim has the right to expect the University to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.
- An EMPLOYEE must report to the Title IX Coordinator all relevant details about the alleged sexual misconduct shared by the victim or other Complainant and that the University will need to determine what happened – including the names of the victim and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.
- To the extent possible, information reported to an EMPLOYEE will be shared only with the Title IX Coordinator or investigator who will direct or handle the University’s response to the report. The Title IX Coordinator will evaluate the Complainant’s request for privacy and share only to the extent necessary to ensure student safety, compliance and a non-discriminatory environment.
- To ensure the privacy of all parties is respected and safeguarded at all times, all employees and students involved in handling Title IX matters, including hearing panel members, will receive specific training about privacy and confidentiality.
- Before a Complainant reveals any information to any employee with privileged communication status or to an EMPLOYEE, it is expected that the employee will discuss the reporting responsibilities with the Complainant to ensure s/he understands what will happen to the information that is shared. If the Complainant wishes to maintain confidentiality, the EMPLOYEE will direct the Complainant to a confidential resource.
- If the Complainant wants to report a sexual misconduct incident to an EMPLOYEE but also maintain confidentiality, the EMPLOYEE should tell the Complainant that the University will consider the request, but cannot guarantee that the request can be honored. When informing the Title IX Coordinator or designee of the report, the EMPLOYEE will also advise the Coordinator/designee of the Complainant’s request for confidentiality.

- If the Complainant's request for confidentiality is honored, the University's ability to investigate the reported incident and pursue disciplinary action against the alleged perpetrator may be limited.
- Although rare, there are times when the University may not be able to honor a Complainant's request for confidentiality. When weighing a Complainant's request for confidentiality or that no investigation or discipline be pursued, the Title IX Coordinator will consider a range of factors, including:
  - The increased risk that the alleged perpetrator will commit additional acts of sexual misconduct
  - Whether the sexual misconduct was perpetrated with a weapon
  - The respective ages of the parties and whether the victim is a minor
  - Whether there are other means (witnesses, other victims, etc.) to obtain evidence of the sexual misconduct
  - Whether the victim's report reveals a pattern of sexual misconduct behaviors at a given location or by a particular individual or group
  - The severity or impact of the sexual misconduct
  - Whether the alleged perpetrator has admitted to the sexual misconduct or has a pattern of misconduct
  - Whether any prior remedial measures have previously been taken with the alleged perpetrator

The presence of one or more of these factors may lead the University to investigate and, if appropriate, pursue disciplinary action. In the absence of these or other similar factors, the University is more likely to be able to respect the victim's request for confidentiality.

- The University may not require a victim to participate in any investigation or disciplinary proceeding.
- To ensure the Complainant has full access to all avenues of addressing an incident of sexual misconduct and also that the University is capturing all information as appropriate, the Complainant will not be pressured to request confidentiality; the University will honor and support the Complainant's wishes, including a full investigation of the reported incident. Conversely, the responsible employee will not pressure a Complainant to make a full report if the Complainant is not ready or willing to do so.
- If the University determines that it cannot maintain a Complainant's confidentiality, the Complainant will be informed prior to starting an investigation and the University will, to the extent possible, only share information with those individuals responsible for handling the matter.
- When the University determines that it will respect a Complainant's request for confidentiality, the University will take immediate action as necessary to protect and assist the victim.
- Because the University is under a continuing obligation to address the issue of sexual misconduct campus-wide, reports of sexual misconduct (including non-identifying reports) will also prompt the University to consider broader remedial action – such as

increased monitoring, supervision or security at locations where the reported sexual misconduct occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and or revising its policies and practices.

### **How and Where to Make a Report of Sexual Misconduct**

Complainants are encouraged to make reports of sexual misconduct occurrences by speaking with or filing a report with the campus Police Security and Safety department, the Title IX Coordinator, the Chief Conduct Officer, the Social Equity Officer or any other University employee. Community resources (found at the [Title IX Resources](#) page) are also available for reporting, support and assistance purposes.

#### **1. To file a report with the University Police Services and Safety department or another police department:**

Victims of sexual misconduct who would like to press criminal charges against a perpetrator(s) should contact the Campus Police Services department (570.662.4900), dial 911 or call the police in the area where the misconduct occurred. Criminal charges can be filed against any perpetrator – student, employee, University guest, non-University community member. Criminal charges of sexual misconduct are separate from violations of the Student Code of Conduct which only applies to Mansfield University students and violations of the Mansfield University Non-Discrimination Policy which applies when the perpetrator is an employee or other University community member. Filing a formal report with the police is necessary when a victim would like to initiate a criminal investigation by the police. Perpetrators can receive punishment up to and including jail time. Anyone who has been a victim of sexual misconduct may choose to pursue both criminal prosecution and University processes. If the incident took place off campus, the University Police Services and Safety department will assist the victim in filing the complaint in the appropriate jurisdiction.

- Victims are encouraged to pursue criminal action for incidents of sexual misconduct which may constitute crimes under Pennsylvania criminal statutes.
- If requested, the University will assist a victim in filing a criminal complaint and will cooperate with law enforcement agencies to the extent permitted by law.
- Except where the victim is under the age of 18, the University will honor the victim's choice whether or not to report a sexual misconduct incident to law enforcement, except when an overriding safety concern exists.
- When a report of suspected abuse or sexual misconduct involving a minor (less than 18 years old) is made, the University (and any adult who has information regarding the sexual misconduct) must notify the Pennsylvania Department of Public Welfare AND the University's designated Protection of Minors lead.
  - Contact the Pennsylvania Department of Public Welfare at: 800.932.0313

- A report of sexual misconduct made to the University Police Services and Safety department will be immediately reported to the Title IX Coordinator. A victim's name and other identifying information can be withheld from the Title IX Coordinator at the victim's request.
- Law enforcement determinations about the presence of criminal behavior or the outcome of any criminal prosecution WILL NOT impact the determination of whether sexual misconduct or discrimination occurred under this Policy, the Student Code of Conduct or the University Non-Discrimination Policy.
- Proceedings under this Policy or under the Student Code of Conduct or the University Non-Discrimination Policy can take place prior to, concurrent with or following any criminal or external civil proceeding.
- Victims of sexual assault, dating violence, stalking and domestic violence may also seek protection through certain protective orders. Protection from Abuse Orders are available through the Tioga County Courthouse. Students or other members of the campus community who are granted a Protection from Abuse Order should always make sure that the University Police and Title IX Coordinator are included in the distribution of those court documents. Individuals who wish to seek a protection order should contact HAVEN of Tioga County who will provide assistance in filing the petition.

**HAVEN of Tioga County**

48 East Avenue  
Wellsboro, PA 16901  
570.724.3549

**Tioga County Courthouse**

118 Main Street  
Wellsboro, PA 16901  
570.724.9380

**2. Reporting Sexual Discrimination/Misconduct to the Title IX Coordinator:**

Information shared with an EMPLOYEE about a sexual assault incident must be immediately reported to the Title IX Coordinator. In addition, victims or witnesses of any form of sexual discrimination and misconduct are encouraged to report the incident directly to the Title IX Coordinator who is charged with overseeing the University's investigation and resolution of such reports as well as coordinating the University's compliance with Title IX. The Title IX Coordinator's responsibilities also include advising any individual about the courses of action and resources available, monitoring compliance with all guidelines specified in the University's complaint procedures, implementing interim measures to ensure the safe and harassment-free learning or working environment for the parties, investigating any complaint of non-compliance with University procedures, and ensuring training of University employees, students and others with respect to Title IX requirements. The Deputy Title IX Coordinator assists the Title IX Coordinator with investigations and compliance with this Policy.

- A report of sexual discrimination, including sexual assault and harassment, may also be filed with the Pennsylvania Human Relations Commission, the Equal Employment Opportunity Commission, and/or the U.S. Department of Education, Office of Civil Rights:

**Pennsylvania Human Relations Commission**

Pittsburgh Regional Office  
 301 Fifth Avenue  
 Suite 309, Piatt Place  
 Pittsburgh, PA 15222  
 412.565.5395  
 412.565.5711 TTY Users

Harrisburg Regional Office  
 333 Market Street, 8<sup>th</sup> Floor  
 Harrisburg, PA 17126-0333  
 717.787.9780  
 717.787.7279 TTY Users

Philadelphia Regional Office  
 110 8<sup>th</sup> Street, Suite 501  
 Philadelphia, PA 19107  
 215.560.2496  
 215.560.3599 TTY Users

**Equal Employment Opportunity Commission**

Pittsburgh District Office  
 William S. Moorhead Federal Building  
 1000 Liberty Avenue, Suite 1112  
 Pittsburgh, PA 15222  
 1.800.669.4000  
 1.412.395.5904 TTY Users

Philadelphia District Office  
 801 Market Street, Suite 1300  
 Philadelphia, PA 19107-3127  
 1.800.669.4000  
 1.800.669.6820 TTY Users

**Office of Civil Rights**  
 LBJ Department of Education Building  
 400 Maryland Ave. SW  
 Washington, D.C. 20202-1100  
 800.421.3481  
 202.453.6012/FAX  
 800.877.8339/TDD

**3. To Make a Report of a Student Code of Conduct or University Non-Discrimination Policy Violation**

Sexual Misconduct is a violation of the Mansfield University Student Code of Conduct and the University Non-Discrimination Policy; accordingly a victim may file a complaint with the Community Conduct Officer and Service Coordinator if the perpetrator is a student and with the Social Equity Office if the perpetrator is an employee, volunteer, vendor, or other campus guest. A student perpetrator can receive punishment up to and including expulsion from the University; an employee perpetrator can be disciplined up to and including termination from employment.

Complaints for violation of the Student Code of Conduct can be made by contacting the Chief Conduct Officer.

Complaints for violation of the Non-Discrimination Policy can be made by contacting the Social Equity Officer.

Reports of sexual misconduct made to the Social Equity Officer or the Chief Conduct Officer will be reported to the Title IX Coordinator.

#### **4. To Make an Anonymous Report**

The University strongly encourages individuals who want to make a report on behalf of themselves or someone else to identify themselves by name, but anonymous reports by the victim or someone with knowledge of a sexual misconduct incident will be accepted. An anonymous report omitting the name of the victim or the Respondent may be filed. A report requesting that no action be taken may also be made. Reports of this nature may however impact the University's ability to respond or take action.

Mansfield University has a legal obligation to investigate all reports of sexual misconduct, including anonymous reports, to the extent possible, but it is difficult to conduct a formal investigation of anonymous reports of sexual misconduct. The University will however, take all reasonable steps to investigate and respond to the complaint, consistent with any request for anonymity, which may include meeting with the alleged harasser to provide notification of the allegations and the possible repercussions if a formal complaint is brought forward. Voluntary sexual misconduct awareness training may be recommended for an individual or work unit.

To make an anonymous report, submit a written report to the Title IX Coordinator directed to the office address of 118 Alumni Hall.

### **VIII. AFTER A REPORT OF SEXUAL MISCONDUCT**

When a report of sexual misconduct is received, the University will provide a coordinated response by the Title IX Team comprising the Title IX Coordinator, Director of Police Services and Safety, Chief Conduct Officer, the Social Equity/Multicultural Affairs Officer (Deputy Title IX Coordinator) and other designated employees across campus. This response will consider the nature of the report, the safety of the Complainant and of the campus community, and the preferences of the Complainant regarding privacy, pursuit of the investigation, etc. According to the Complainant's wishes, the University will provide resources for support. (See the [Victim's Bill of Rights](#) and [Mansfield University Sexual Assault Information and Resources](#) document available on the Mansfield University website.)

## **Step One: Assessment**

The first step after a sexual misconduct incident report is made is an immediate assessment by the Title IX Coordinator and/or Team. If the assessment concludes there is a risk of immediate, substantial threat of harm or danger to the Complainant or the campus community, two actions may be taken:

### (1) Interim Measures

Interim measures to ensure the safety of the Complainant and the campus may be taken. These interim measures may include:

- Access to counseling services and assistance in setting an appointment – on or off campus;
- Imposition of an on-campus “no contact” directive;
- Rescheduling of exams and assignments;
- Providing alternate course completion options;
- Changing class sections;
- Transferring course sections or course withdrawal without penalty;
- Changing work schedules or job assignments;
- Changing student’s campus housing location;
- Voluntary leave of absence;
- Limiting access to certain University facilities or activities;
- Providing support services, including transportation and escort services;
- University-imposed leave or separation;
- Accommodating financial aid needs; and
- Any other appropriate remedy that can be tailored to the involved individual(s).

It is important to note that, before imposing interim measures, the University will also consider the impact upon the Respondent (the alleged perpetrator) as due process will not have yet been afforded to him or her.

### (2) Federal Timely Warning Reporting

Mansfield University must issue immediate timely warnings for reported incidents that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. Mansfield University will ensure that a victim’s name and other identifying information is not disclosed on any posted warning, while still providing enough information for community members to make safety decisions in light of the danger. The crime alert warnings will be posted in buildings and bulletin boards throughout campus and an email will also be sent to the campus community. The Police Services and Safety department is responsible for issuing the timely warnings.



It is important to note that the University is also obligated to report sexual/gender based misconduct for federal statistical reporting purposes (Clery Act). All personally identifiable information is kept confidential, but information of any sexual/gender based misconduct learned by the individuals listed below must be passed along to campus law enforcement for publication in the annual Campus Security Report. The information to be shared includes the date, the location of the incident, and the type of incident. This report helps to provide the community with a clear picture of the extent and nature of campus crime to ensure greater community safety. Mandated federal reporters include: student/conduct affairs, campus law enforcement, 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. This reporting protects the identity of the Complainant and may be done anonymously. The annual Mansfield University Campus Security Report may be found online at the following website: <http://www.mansfield.edu/police/annual-report-and-crime-statistics.cfm>.

### **Step Two: Reviewing Complainant's Preferences**

At the time a report is made, a Complainant does not have to immediately decide whether or not to pursue any action, request disciplinary action or pursue law enforcement intervention. Choosing to make a report and deciding how to proceed after making the report can unfold over time. The University will, to the extent possible, respect an individual's autonomy in making a decision and will offer support to assist in making the determination.

The University will attempt to take action consistent with the Complainant's request for privacy when possible. When a Complainant makes a report but requests that a name or other identifiable information not be shared with the alleged perpetrator (Respondent) or that no formal action be taken, the University will weigh this request against its obligation to provide a safe and non-discriminatory environment for all Mansfield University community members and the principles of fairness that require notice and an opportunity to respond before an investigation is undertaken or action is taken against a Respondent.

### **Step Three: The Investigation**

Following the initial review, the University may refer the matter for further investigation, depending on a variety of factors, including the Complainant's wish to maintain privacy or pursue disciplinary or corrective action, the risk posed to any Complainant and/or the campus community by not proceeding, and the nature of the allegation.

Once it has been determined that an investigation will be undertaken, The Title IX Coordinator or Deputy Coordinator will conduct the investigation or designate an investigator who has received training in conducting investigations and victim support. To that end, the University will provide annual training for investigators and will also ensure that all investigations are conducted by an impartial investigator without a conflict of interest. The investigator may be an employee of the University, a designated external investigator, or a team of investigators.

The goal of an investigation is to gather relevant facts in a fair and reliable manner. Investigations will typically include interviews with the Complainant, the Respondent and any witnesses. As part of the investigation, parties will be allowed to identify witnesses and provide other evidence. Interviews may be supplemented by the gathering of all pertinent physical, documentary or other

evidence, as appropriate or available. The investigation will be thorough, impartial, and fair and all parties will be treated with sensitivity and respect.

Information gathered during the review or investigation will be used to evaluate the responsibility of the Respondent, provide for the safety of the Complainant and the campus, and impose remedies as necessary to negate the effects of any misconduct.

*In reviewing an allegation of sexual misconduct, it is critical that the University determine if consent existed between the parties. Although all parties must give their consent to any sexual act and it is the best practice for both partners to be responsible for ensuring consent exists before and while engaging in a sexual act, it is the responsibility of the person initiating the sexual act to obtain consent from the other.*

*In a conduct hearing or complaint investigation process, the hearing officer or investigator may examine the issue of consent from a variety of perspectives including whether a reasonable person would have believed that he or she had obtained consent for the sexual conduct in question. **Students and employees are strongly advised to be mindful of and conduct themselves according to the reasonable person standard and to avoid any ambiguity in obtaining and giving consent.***

At the conclusion of the investigation, a report setting forth the facts will be completed; the Title IX Coordinator will notify all parties that the investigation is complete and provide a copy of the report to the parties and forward the report to the appropriate University office for further action, if warranted. When there is sufficient information to conclude that this or related policies have been violated, the University has the discretion to refer this matter for judiciary (student) or disciplinary (employee) proceedings against the Respondent. Also, if the Complainant wishes to pursue a resolution and/or disciplinary action, the information gathered in the investigation will be used in any University disciplinary proceedings.

In the event there are two or more Complainants and/or two or more Respondents charged with sexual misconduct in the same set of circumstances, the Title IX Coordinator or assigned team member will decide whether the complaint will be handled jointly or separately.

**Complaints against Students** (student to student or allegations in which the alleged offender is a student) are governed by the Mansfield University Student Code of Conduct. In cases referred to the Student Conduct office, the referring and referred students will both have a pre-hearing conference, will both have the opportunity to present witnesses and evidence, will both have the right to one advisor, will both have the right to request accommodations at the hearing so as not to come in contact with or directly view the opposite student involved, will both receive notice of the steps in the process, and will both have the same appeal rights. All cases referred in this manner can expect to have the investigative results presented at the hearing and are resolved based on the preponderance of the evidence.

**Complaints against Employees** are governed by the University Non-Discrimination Policy and any applicable collective bargaining agreement or relevant management policy. Under this Policy, the Respondent will receive written notification of the complaint allegations and both parties will be provided the opportunity to participate in fact-finding interviews and present witnesses and evidence. Both parties have the right to one advisor and employees may also be accompanied by their respective collective bargaining unit representative. In addition, both parties will have the right to request accommodations at the hearing to avoid direct contact with each other and both

parties will have the same appeal rights. The matter will be adjudicated based on the preponderance of the evidence standard.

**Complaints against Third Parties** (campus community member other than student or employee or any individual not affiliated with the University), will be reviewed and assessed by the Title IX Coordinator/Team and a determination will be made regarding options available to address the complaint ensuring students' and employees' safety and full access to expected educational benefits.

**Complaints against the Title IX Coordinator or Deputy Title IX Coordinator** are governed by the relevant management policies and should be submitted directly to the President of the University.

### **Informal Resolution of Complaints**

For Complaints against employees or third parties, if agreed to by the parties (Complainant and Respondent) and deemed appropriate by the Title IX Coordinator, a complaint of sexual misconduct may be resolved through an informal or mediation process as outlined in the University Non-Discrimination Policy. The Complainant and Respondent will not be required to engage in a face-to-face meeting as part of the informal or mediation process.

**The informal and mediation process is not available for complaints of sexual assault, dating violence, domestic violence, stalking or other sexual violence.**

### **Timeframe for Resolution**

The University expects to resolve all reports within 60 days after a Complaint is made. However, this timeframe is a guideline and not a rigid requirement. Circumstances, such as the complexity of the allegations, the number of witnesses, the availability of parties or witnesses, a concurrent criminal investigation, intervening University breaks or other unforeseen circumstances may require the extension of the 60-day timeframe. There may also be times when the criminal authorities request that the University defer a fact-finding investigation until components of the criminal investigation have been completed. However, any extension will not defer the implementation of interim measures to ensure the safety and wellbeing of students and campus, including the availability of counseling and advocacy services. Mansfield University will make every effort to complete the complaint process in a timely manner by balancing thoroughness with fundamental fairness and promptness. The Complainant and Respondent will be notified of any delay in the investigation or resolution process.

### **Communication of Results**

At the conclusion of any disciplinary proceedings or appeal process, the parties will receive written notification of the findings and any sanctions imposed; the notification will be provided simultaneously to the individual parties.

### **Suspension, Withdrawal or Dismissal of a Complaint**

The investigation of a complaint may be suspended at any stage if the Title IX Coordinator/Team, Chief Conduct Officer and/or Social Equity Officer receive a written resolution of the complaint agreed to by both the Complainant and Respondent.

A complaint may, at the University's discretion, be withdrawn at any time upon receipt of a written request from the Complainant. The Respondent will receive written notice of the withdrawal of the complaint.

If the Complainant files a complaint with an external enforcement agency or state or federal court, the Title IX Coordinator /Team may discontinue the internal complaint process and defer the complaint to the appropriate state or federal agency or court.

A complaint may be dismissed if the Title IX Coordinator or designated investigator determines that sexual misconduct has not occurred.

A complaint may be dismissed if the Title IX Coordinator or designated investigator determines that the Complainant has not cooperated and the action(s) of the Complainant impairs or compromises the investigator's ability to conduct an objective investigation. In such instances, the investigator may discontinue the investigation.

Willful false allegations by a Complainant or abuse of the processes outlined in this Policy, the Student Code of Conduct and/or the University Non-Discrimination Policy may result in actions and sanctions, including reprimand, suspension, demotion or dismissal.

## **IX. RETALIATION and INTIMIDATION PROHIBITED**

The Complainant and any other individual who participated in an investigation of alleged sexual misconduct will not be subjected to any form of retaliation and/or intimidation from the Respondent or any other individual as a result of filing a complaint, providing information or witness testimony, reporting an occurrence of sexual misconduct, or protesting a behavior prohibited by this policy, the Student Code of Conduct or the University Non-Discrimination Policy.

Retaliation occurs when an individual is subjected to adverse action in response to that individual expressing concern about sexual misconduct or participating in the opposition or resolution of a complaint involving sexual misconduct. Intimidation occurs when an individual is forced into or deterred from an action by inducing fear or discouragement.

A separate investigation will be conducted concerning any reported retaliation. Any individual found to have retaliated against another individual involved in the investigation will be subject to discipline up to and including discharge from University employment or dismissal from the University if a student.

## **X. INTERFERENCE/FALSE REPORTING PROHIBITED**

Allegations of sexual misconduct can have far-reaching effects; therefore, false or malicious accusations may result in disciplinary action. Also, the University may take disciplinary action against someone who knowingly provides false information during the investigation of a complaint of sexual misconduct or who attempts to interfere with any individual pursuing a sexual misconduct complaint.

Anyone who believes that s/he has been the subject of a false complaint of sexual misconduct may meet with the Title IX Coordinator/Team to discuss the allegations. A report of sexual

misconduct that results in a finding of no policy or code violation is not sufficient evidence of the intent to make a false complaint.

## **XI. ADDITIONAL RIGHTS**

Individuals are encouraged to use the complaint procedures outlined in this Policy to resolve complaints of sexual misconduct, but are not required to do so and may choose to pursue other civil and legal options.

The procedures set forth in this Policy, the Student Code of Conduct and the University Non-Discrimination Policy are not intended to interfere with any legal rights under the statutes of the Commonwealth of Pennsylvania or the United States of America. In addition, the policies are not intended to interfere with any rights an employee may have under their respective collective bargaining agreement or management rights policy.

## **XII. EDUCATION AND PREVENTION PROGRAMS/DISSEMINATION OF POLICY**

Mansfield University is committed to the prevention of sexual misconduct in all forms and will provide education and awareness programs to employees, students and other campus community members on a regular, ongoing, and annual basis. Prevention programs will include an overview of the pertinent University policies and guidelines including prohibited conduct, discussion of the impact of drug and alcohol use, obtaining consent and information about risk reduction and bystander intervention. Incoming first-year students and new employees will receive prevention and awareness information as part of their orientations or within 60 days of hire. Training will be documented and records of training and attendees/participants will be maintained to ensure the University is meeting its goal of training all employees and students.

This policy is displayed on the University's website and can be accessed by clicking on the Title IX tab under Quick Links in the upper right corner of the home page. A printed copy of this policy is available at the Social Equity Office (107 Alumni Hall) and the Women's Center (321 Alumni Hall).

### XIII. TITLE IX RESOURCES

The following University resources are available to all members of the University community who seek information about University policies on sexual discrimination, standards of conduct, informal and formal mechanisms for resolving complaints. These resources for informational purposes include, but are not limited to the following:

<b>Privileged Communication Resources</b>		
Jolene Meisner, Licensed Counselor	140 South Hall	570.662.4696
Doug Candelario, Licensed Counselor	138 South Hall	570.662.4697
Annette Dutchess, Licensed Counselor	108 Hemlock Manor	570.662.4697

<b>Campus Resources</b>
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Mansfield University Counseling Center	144 South Hall	570.662.4695/4436
Mansfield University Women's Center	321 Alumni Hall	570.662.4939
Mansfield University Health Services (students)	Spruce Hall, Ground Floor	570.662.4350
University Police	104 Doane Center	570.662.4900
State Employee Assistance Program (employees)		800.692.7459 800.824.4306 TDD
Office of the Chancellor	Dixon University Center 2986 N. 2 <sup>nd</sup> Street Harrisburg, PA 17110	717.720.4010

<b>Community Resources</b>		
HAVEN of Tioga County	48 East Avenue Wellsboro, PA 16901	570.724.3549
Tioga County Human Services Agency: Bridge House	1873 Shumway Hill Road Wellsboro, PA 16901	570.724.5766
Abuse and Rape Crisis Center – Bradford County	P.O. Box 186 Towanda, PA 18848	570.265.5333
A Way Out: Domestic Violence and Sexual Assault Services – Potter County	110 East 3 <sup>rd</sup> Street Coudersport, PA 16915	814.274.0368
PA Coalition Against Domestic Violence	3605 Vartan Way, Suite 101 Harrisburg, PA 17110	800.932.4632
PA Coalition Against Rape	125 N. Enola Drive Enola, PA 17025	717.728.9740

National Sexual Violence Resources Center	123 N. Enola Drive Enola, PA 17025	877.739.3895 717.909.0715 TTY
Rape, Abuse & Incest National Network	1220 L Street NW, Suite 505 Washington, DC 20005	800.656.4673

### External Enforcement Agencies

An individual who files a complaint alleging sexual misconduct has the option of pursuing external enforcement. At any time during the complaint process, a complainant may choose to file a complaint with a court of external public agency responsible for enforcing the laws against sexual misconduct, such as:

Equal Employment Opportunity Commission (EEOC)	William S. Moorhead Federal Building 1000 Liberty Avenue, Suite 1112 Pittsburgh, PA 15222	800.669.4000 412.395.5904 TTY
	801 Market Street, Suite 1300 Philadelphia, PA 19107-3127	800.669.4000 800.669.6820 TTY
Office for Civil Rights (OCR), U.S. Department of Education	Lyndon Baines Johnson Department of Education Building 400 Maryland Avenue, SW Washington, DC 20202-1100	800.421.3481 800.877.8339 TDD
Pennsylvania Human Relations Commission (PHRC)	301 Fifth Avenue Suite 309, Piatt Place Pittsburgh, PA 15222	412.565.5395 412.565.5711 TTY
	333 Market Street, 8 <sup>th</sup> Floor Harrisburg, PA 17126-0333	717.787.9780 717.787.7279 TTY
	110 8 <sup>th</sup> Street, Suite 501 Philadelphia, PA 19107	215.560.2496 215.560.3599 TTY

Dated: December 19, 2014