What to Do in Case of Sexual Harassment

The University does not discriminate on the basis of sex in its education programs. As sexual harassment and sexual violence are types of sex discrimination, they also are not permissible. The University’s policy prohibiting sex discrimination applies to everyone’s conduct—students, faculty and staff—to all of the University’s education programs or activities, either on or off-campus in United States territory. These policies are in place to protect us all, along with visitors.

The University does not tolerate Sexual Harassment and it is the University’s policy to provide programs to prevent sexual harassment, including domestic violence, dating violence, sexual assault, and stalking, which crimes are prohibited, by increasing awareness of gender violence in our students during their orientation.

These programs provide options that will be helpful to bystanders in intervening to prevent sexual and relationship violence. Bystanders play a critical role in the prevention of sexual and relationship violence. They are “individuals who observe violence or witness the conditions that perpetuate violence. They are not directly involved but have the choice to intervene, speak up, or do something about it.” We want to promote a culture of community accountability where bystanders are actively engaged in the prevention of violence without causing further harm. We may not always know what to do even if we want to help. Below is a list of some ways to be an active bystander.

If you or someone else is in immediate danger, dial 911. This could be when a person is yelling at someone or being physically abusive towards another and it is not safe for you to interrupt.

1. Watch out for your friends and fellow students/employees. If you see someone who looks like they could be in trouble or need help, ask if they are ok.

2. Confront people who seclude, seek to take advantage of or have intimate relations with people who are incapacitated or report such behavior to the Title IX Coordinator.

3. Speak up when someone discusses plans to take sexual advantage of another
person.

4. Believe someone who discloses sexual assault, abusive behavior, or experience with stalking and encourage them to seek help.

5. Refer people to on- or off-campus resources for support in health, counseling, or with legal assistance.

Providing Written Information

The University will provide a written explanation of available rights and options, including procedures to follow, when it receives a report that a student or employee has been a victim of Sexual Misconduct or a VAWA Crime, whether the offense has occurred on- or off-campus or in connection with any University program. The written information shall include:

- To whom the alleged offense should be reported.

- Options for reporting to law enforcement and campus authorities, including the option to notify local law enforcement authorities; the right to be assisted by campus authorities in notifying law enforcement authorities if the complainant so chooses and the right to decline to notify such authorities.

The rights of the parties regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by criminal or civil courts and the School’s responsibilities regarding such orders.

- The importance of preserving evidence as may be necessary to prove Sexual Assault, a VAWA Crime, or to obtain a protection order.

- Existing campus and community services available for the parties including counseling, health, mental health, victim advocacy, legal assistance, and other services.

- Options for, and available assistance to, change academic, and working situations, if requested by the one of the parties and if reasonably available. These options are available regardless of whether the victim chooses to report the crime to
campus police or local law enforcement.

- Any applicable procedures for institutional disciplinary action.

The University applies the same procedure to investigate accusations of sexual harassment regardless of whether the complainant and the accused is student, staff or faculty. The investigation is conducted by the Title IX Investigator, who is accompanied by another member of staff or faculty.

Definitions

Actual Notice

Actual knowledge means notice of sexual harassment or allegations of sexual harassment to a school's Title IX Coordinator or any official of the school who has authority to institute corrective measures on behalf of the school. "Notice" includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator.

This standard is not met when the only official of the recipient with actual knowledge is the respondent. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the recipient. “Notice” as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator as described in §106.8(a).

Any person can notify the University and the title IX coordinator that sexual harassment has occurred

Education Program and Activities

“Education program or activity” means on campus activities but includes other US locations, events, or circumstances over which the University exercises substantial control over the person accused of harassment and the context in which the sexual harassment
occurs. It also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution. This includes field trips, conferences, and buildings owned or controlled by any officially recognized student organization.

**Complainant:**

Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

**Formal complaint**

Formal complaint means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the recipient investigate the allegation of sexual harassment.

**Sexual Harassment**

According to the Sex Discrimination Guidelines of the Equal Employment Opportunity Commission (EEOC), sexual harassment is a form of sex discrimination. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

(i) A school employee conditioning education benefits on participation in unwelcome sexual conduct (i.e., quid pro quo); or

(ii) Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or

(iii) Sexual assault (as defined in 20 U.S.C. 1092(f)(6)(A)(v),)

And an offense that meets the definition of rape, fondling, incest or statutory rape as used in the FBI’s Uniform Crime Reporting system. A sex offense is any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent. It includes the following definitions:

- Rape,
Fondling,
Incest, or
Statutory rape

**Rape:** The 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 the consent of the victim.

**Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

**Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

**Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.

**Dating Violence:** (as defined in 34 U.S.C. 12291(a)(10))
Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be based upon the reporting party's statement with consideration of the following factors:
(i) The length of the relationship
(ii) The type of relationship
(iii) The frequency of interaction between the persons involved in the relationship.
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.

**Domestic Violence** (as defined in 34 U.S.C. 12291(a)(8))
The term “domestic violence” includes felony or misdemeanor crimes of 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 intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is
protected from that person’s acts under the domestic or family violence laws of the jurisdiction.

**Stalking:** (as defined in 34 U.S.C. 12291(a)(30).)

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress.

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

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**Effective Consent**

“**Effective Consent**” means words or actions that show a knowing and voluntary agreement to engage in mutually agreed-upon sexual activity. Effective Consent cannot be gained by force, by ignoring or acting in spite of the objections of another, or by knowingly taking advantage of the incapacitation of another, where the accused student knows or reasonably should have known of such incapacitation. This means that sexual activity with someone mentally or physically incapacitated (because of disability, alcohol/drug use, sleep, unconsciousness, blackout or bodily restraint) is a violation of this policy. Silence in and of itself is not an indication of consent and consent may be withdrawn at any time. However, parties are encouraged, whenever possible and reasonable to communicate their objections or withdrawal of consent.

Students, faculty members, and administrators should understand that apparently consensual sexual relationships, particularly those between individuals of unequal status, may be or become a violation of this policy. Anyone who engages in a sexual relationship with a person over whom the individual has any degree of formal power or authority must understand that the validity of the consent involved can and may be questioned. The University is particularly aware of the abuse potentially inherent in sexual relationships
between staff or faculty members and students, and between supervisors and their employees.

Force

“Force” means physical force, violence, threat, coercion, or intimidation. Intimidating someone for one of the purposes described above is a form of sexual violence, as is retaliating following an incident of alleged sexual violence or attempted sexual violence.

Incapacitation

“Incapacitation” means the physical and/or mental inability to make informed, rational judgments. States of Incapacitation include, without limitation, sleep, blackouts, and flashbacks. Where alcohol is involved, one does not have to be intoxicated or drunk to be considered Incapacitated. Rather, incapacitation is determined by how the alcohol consumed impacts a person’s decision-making capacity, awareness of consequences, and ability to make informed judgments. The question is whether the accused student knew, or a sober, reasonable person in the position of the accused student should have known, that the complainant was incapacitated. Because Incapacitation may be difficult to discern, students are strongly encouraged to err on the side of caution, i.e., when in doubt, assume that another person is incapacitated and therefore unable to give Effective Consent. Being intoxicated or drunk is not a defense to a complaint of Sexual Misconduct under this Policy.

Sexual Exploitation

“Sexual Exploitation” happens when a student takes non-consensual sexual advantage of another for the purpose of arousing or satisfying his/her own sexual desires or those of a third party.

Examples of sexual exploitation include, but are not limited to, prostituting another student, non-consensual video or audiotaping of sexual activity, going beyond the boundaries of consent (such as letting your friends surreptitiously watch you having consensual sex), engaging in Peeping Tommery.
They also include:

- **Knowing Transmission of STD**: Knowingly transmitting an STD (including HIV) to another student is a violation of this policy.

- **Possession, Use, Distribution and/or Administration of Date Rape Drugs**: Possession, Use, Distribution and/or Administration of Date Rape Drugs of any of these substances, including Rohypnol, Ketamine, GHB, Burundanga, etc. is prohibited, as is administering one of these drugs to another student for the purpose of inducing incapacity.

- **Attempts to Commit/Aiding in the Commission of Sexual and/or Relationship Misconduct**: Attempts to commit Sexual or Relationship Misconduct and aiding in the commission of Sexual or Relationship Misconduct as an accomplice are also prohibited under this policy.

- **Retaliation**: Intimidating, threatening, coercing or taking any other action that has an adverse impact on an individual’s grades, class selection or any other matter pertaining to a student’s status because she/he has sought guidance, filed a complaint or participated in an investigation under this policy.

Students, faculty members, and administrators should understand that “apparently consensual” sexual relationships, particularly those between individuals of unequal status, may be or may become a violation of this policy. Anyone who engages in a sexual relationship with a person over whom the individual has any degree of formal power or authority must understand that the validity of the consent involved can and may be questioned. The University is particularly aware of the abuse potentially inherent in sexual relationships between staff or faculty members and students, and between supervisors and their employees.

Sexual harassment, sexual assault, dating/domestic violence and stalking involving students may occur between two or more students, between students and faculty, or between students and administrators. Third party harassment may occur when a person who is not the direct target of harassment suffers the consequences of harassment
indirectly. Anyone may experience sexual harassment, irrespective of gender identity or sexual orientation.

All such complaints or incidents should be reported immediately either anonymously or not to:

- The Vice President of Enrollment and Student Affairs, phone: 641-472-1204,
- The Associate Dean, phone: 641-472 1190 or,
- The Title IX Coordinator, phone: 641-233-8033

Once the University is notified of a harassment complaint, the Title IX Coordinator(s) will contact the Complainant or potential Complainant and discuss the availability of accommodations which are available with or without a formal complaint. The Title IX Coordinator will also discuss the process for filing a complaint.

If a formal complaint is filed or the Title IX Coordinator determines that an investigation has to take place, The Title IX Investigator and associate Investigators will promptly notify the parties by email. They will then begin gathering facts. This process will be conducted as confidentially as possible keeping in mind any request for privacy, but also the wellbeing of members of the University community.

The purpose of the review is to gather the necessary facts to determine if harassment has occurred, and it will follow the process of a formal investigation described below, but may also result in informal resolution between the involved parties.

Results of a formal investigation are ultimately determined by one or more Adjudicators who are tasked with determining whether a party was responsible of sexual harassment, and imposing any resulting disciplinary action, including sanctions.

Retaliation against a person who reports harassment in good faith will also not be tolerated. If a finding of harassment is made, a record will be filed in the harasser’s file.
What do I do if I believe I am a victim of sexual violence?

Maharishi International University urges people who have been sexually assaulted to pursue criminal charges against the person or persons they believe to have committed the sexual assault. A person who has experienced a sexual assault involving a member of the campus community is also urged to make a complaint to the University by contacting Campus Safety and Security and/or MIU’s Title IX Coordinator.

The Title IX Coordinator is Caterina Tomaselli. She can be reached by phone at 641-233-8033; or email at eroesler@miu.edu. Caterina’s office is in room 112, Gate Ridge Building, located at 1100 North 4th Street.

Complainants are also advised to seek medical attention as soon as possible or within 72 hours of a sexual assault, though they may do this at any time. Seeking help as quickly as possible may help ensure a student’s physical safety, as well as preserve evidence, which in turn, makes it easier for the University and law enforcement to respond effectively.

When informed of an alleged incident of sexual violence, all University students, faculty and employees are urged to encourage and assist complainants, as needed, to report the incident to local law enforcement, local victim/survivor services, MIU’s Title IX Coordinator, or a member of the Student Life Department, and/or a campus security authority (CSA). A criminal charge and an internal complaint can be pursued at the same time.
Reporting Sexual Harassment or Violence

Confidential Reporting

If you wish to make a voluntary, confidential report concerning a crime for inclusion in our annual disclosure of crime statistics you may file your compliant online at:

https://services.miu.edu/campus-security/incident-reporting-form/

or you can mail the report to Beata Nacsa, Director of Regulatory Compliance, or Rig Gelfand, Director of Safety and Security at 1000 North 4th Street, Fairfield Iowa 52557.

The crime report will be reviewed by the Safety and Security Office and the Title IX Coordinator to determine the University’s response. Other established university channels should be used to report these matters, whenever possible.

Complainants who want to speak to someone but require that details of an incident be kept confidential may speak with:

1. On-campus Personal Support Service Director Leslie Doyle (ldoyle@miu.edu) and University Counselor Emily Wofford (ewofford@miu.edu).

2. Or off-campus rape crisis resources who can maintain confidentiality unless there is cause for fear for complainant’s safety, or the safety of others. The Director of Personal Support Services has not been specifically designated as “responsible employees” for purposes of putting the institution on notice and for whom mandatory reporting is not required, other than in the stated limited circumstances.

Off campus confidential resources include:

- First Resources: 641-472-4106 x210

- Optimae Life Services: 301 W. Burlington Ave., Fairfield, 641-472-5771 and
You may also wish to speak with on and off-campus members of the clergy and chaplains, who will also keep reports made to them confidential.

**Crisis Intervention Services**

- In addition, students are encouraged to get support from crisis centers. Their services are free and confidential and include safety planning, support through reporting process, crisis counseling, and personal advocacy. These centers are available 24/7 on the phone and for responses to hospitals, and available to meet in person during daytime hours.

  - **Crisis Intervention Services**: 24/7: 1-800-270-1620;

- **Emergency Housing Hotline**: 1-844-673-5499;

- **The Crisis Center & Women’s Shelter in Ottumwa**: 24/7 crisis line is 641-683-1750 or 800 770 1650 (they also have a volunteer in Fairfield available by appointment);

- **Crisis Center & Women’s Shelter**, which serves victims of domestic violence. Their 24/7 crisis line is 641-683-1750;

- **The Iowa Sexual Abuse Hotline**: 800-284-7821;

- **The National Sexual Assault Hotline**: 800-656-HOPE (4673); for an online
confidential chat with a trained volunteer:

https://ohl.rainn.org/online.rainn.org/

- Foundation2 Crisis Line: (800) 332-4224
- National Suicide Prevention Lifeline: 1-800-273-8255 (1-800-273-TALK)
- Crisis Text Line: text HOME to 74

After Hour Emergencies

In case of after hour emergencies, students may also reach the Personal Support Services Director, Leslie Doyle, phone: 641-919-7699.
Medical Treatment of Sexual Violence

A person who has experienced sexual violence is urged to seek appropriate medical evaluation as promptly as possible, ideally within 72 hours of the incident, though they may do so at any time. As needed, students should call 911 or go to the Jefferson County Health Center Emergency Department.

They may also contact the registered nurses in the University Wellness Clinic, 1080 North 4th Street, Fairfield Iowa 52556, 641-472-7000, ext. 3411, nurse@miu.edu, for advice, first aid, and assistance in obtaining medical care. The Wellness Clinic hours are generally Monday through Friday 1–4 PM. They may also call the security officer at 641-472-1115 who will assist them in seeking medical attention.

University counselors and the security officer will also assist students who have been the victim of sexual violence in obtaining further assistance, including help with transportation to the Jefferson County Health Center, or local law enforcement. Please note that as detailed above, members of Campus Safety and Security cannot guarantee confidentiality as they have, by law, been designated as “responsible employees” who must alert the IX Coordinator that an alleged sexual offence has occurred. University health care providers will maintain confidential the identity of a student who has sought their help for sexual violence but will report the incident to the University’s Title IX Coordinator and the Security Office to enable the University to understand the existence and extent of the problem. The director of university health center or designee will also report the incident to Campus Safety and Security without any identifying information for inclusion in the daily crime log and annual security report and for issuance of “timely warning” to other community members, if needed.
Sexual Assault Exam

A sexual assault exam is a specific form of medical attention that is available at the hospital emergency room. Sexual assault exams have two purposes. First the nurse makes sure that people who have experienced sexual assault are physically alright and addresses health concerns. Second, the nurse can collect, and store forensic evidence should the individual later decide to make a police report at that time or later. It is paid for by the State of Iowa and free to victims of sexual assault.

Personal Support and Counseling Referrals
(Confidential)

Students involved in a case of sexual violence are encouraged to seek counseling. On campus, they may contact the Personal Support Services Director 641-472-1241, Leslie Doyle ldoyle@miu.edu. The Emergency phone number for Personal Support Services Director Leslie Doyle is (641) 919-7699. Students may also contact the University’s Licensed Clinical Social Worker Emily Wofford (ewofford@miu.edu) They can refer students to Victoria Knight, licensed therapist, or Optimae Life Services, both in Fairfield; the University will pay for three to five visits per semester for students whose insurance does not cover such visits. Students may also contact Victoria J Knight, 320-428-0957, or Optimae Life Services, 301 W. Burlington Ave., Fairfield, 641- 472-5771, directly.
Non-confidential Reporting

Complainants are encouraged to speak to officials of the institution to make formal reports of incidents to the Title IX coordinator or deputy coordinators, deans, vice presidents, or other administrators with the authority to impose disciplinary sanctions. Notice to them is official notice to the institution. In addition, students may speak to individuals with supervisory responsibility, RDs, RAs, and teaching assistant campus security, and human resources. The University considers these people to be “responsible employees” or “mandatory reporters.” Responsible employees cannot promise confidentiality, and must report basic information to the Title IX Coordinator(s) including:

- The names of the alleged perpetrator,
- The student/employee who experienced the alleged harassment and/or violence, and any other student/employee involved,
- The date, time, and location of the alleged incident.

However, notice to the Title IX Coordinator does not mean that the incident will be investigated without the consent of the alleged victim. Barring exigent circumstances, a Title IX Coordinator will offer the opportunity to the alleged victim to come in for an interview, file a formal complaint and/or to receive assistance or accommodations as needed, but the alleged victim may choose what action to take, the type and extent of assistance to receive, and whether to file a complaint (also called “formal reporting”). If a complaint is filed, complainants have the right, and can expect to have incidents of sexual misconduct to be taken seriously by the University, and to have those incidents investigated and properly resolved through administrative procedures. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator.

As required by law, all disclosures to any University employee of an on-campus sexual assault are tabulated for statistical purposes by the Campus Safety and Security Department, without personal identifying information. In compliance with federal law, these statistics and other mandated crime statistics are reported annually, but no names are disclosed. Publicly available record keeping will be maintained without the inclusion of personally identifiable information about victims.
Formal reporting gives the parties equal opportunity to select an advisor of the party’s choice (who may be, but does not need to be, an attorney); The title IX Coordinator(s) or Investigator(s) will inform parties in writing when a party’s participation is needed for an interview, meeting, or hearing.

Each party will have a chance to review and respond to the evidence gathered during the investigation; and each will receive a copy of the investigative report summarizing the relevant evidence, prior to reaching a determination regarding responsibility.

Formal Complaint Procedure

Initial Complaint

A Complainant may file a complaint with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator. The complaint needs to be signed, either electronically or by hand.

Notice

Once a complaint has been filed the Title IX Coordinator will send written notice (generally by email) to the parties involved. The notice will detail:

• Identities of the parties involved in the incident;
• The conduct alleged;
• The date and location of the incident;
• Respondent’s entitlement to a presumption of innocence.
• Parties’ right to an advisor of their choice, at the party’s expense, who may be an attorney; and
• Parties’ right to review and comment on evidence.

If the University becomes aware of additional claims the University will provide a new updated notice.

The Investigators will send written notice of any interview to any party or witness and will
allow sufficient time to the parties to prepare for such interview.

**Advisors**

If they wish, parties may retain an Advisor to assist during the process. The Advisor may be an attorney, if preferred, a member of faculty or staff, or another student as long as they are legally an adult. If a party chooses to retain an attorney, the role of the attorney will not be to advocate on that party’s behalf or to be directly involved in the case, but rather, as an observer and support in understanding the University’s process, including and procedures or help clarify questions and concerns. A support person that violates this role can be removed by the University.

Advisor will take an active role during the live hearing, when they will be asking questions to the opposing party via live cross examination.

**Initial Investigation**

The Investigator(s) will conduct an investigation into the incident, gathering relevant facts, interviewing parties and available witnesses. The Investigator(s) will set up separate with interview Complainant, Respondent, and any identified witnesses.

Each party can present the names of witnesses whose testimony is relevant to the case. All evidence gathered will be ultimately analyzed according to the “more likely than not” standard by the University’s Adjudicator(s).

If needed, the Investigators will also initiate an immediate response to separate the complainant and respondent (i.e., the accuser and the person accused of sexual misconduct) from engaging each other in common areas, residence halls, campus buildings, and student activities.

While investigating a claim of sexual harassment or sexual violence the school will never deprive any individual of rights guaranteed under the U.S. Constitution. All personnel involved in the investigative process will be impartial and free from bias, and both Complainant and Respondent are entitled to a fair process. Neither the sex of an individual nor a party’s status as a Respondent or Complainant will have an influence on the process.
As mandated by Title IX regulations, Respondents are considered innocent until proven otherwise.

The Investigator(s) have the discretion to remove the complainant or respondent from a hostile living situation. Consequently, a student who believes he or she has been the victim of sexual misconduct, as well as a student who has been accused of sexual misconduct, will be advised that they may contact the Coordinators to request any of the following, when related to the incident or accusation of sexual misconduct, whether or not a formal disciplinary process is conducted or requested:

1) A change of the student’s on-campus housing location to a different on-campus location if alternate on-campus housing is available.

2) Assistance in exploring alternative housing off campus.

3) Assistance in securing a transfer of class sections or, arrangement for independent study courses.

4) Assistance in arranging grades of incomplete, leaves, or withdrawal.

5) Assistance in arranging alternate transportation, if needed.

6) Assistance in changing a working situation.

7) Issuance of a no-contact directive: Such a directive may occur if the University determines that continued contact between a student who has made a complaint, a student who has been accused of sexual misconduct, and/or a witness would be detrimental to any of the parties’ welfare whether or not a formal complaint or disciplinary proceeding is being conducted. Additionally, directives of no contact may be issued and enforced by the University through its Campus Security Office if the University determines that such a directive is in the best interest of a student. Further, the student can contact the local law enforcement authorities for such protection directly.

8) Other interim actions, when necessary to protect student welfare, such as interim suspensions.
Any University investigation of sexual violence will proceed independently of any action taken in criminal or civil courts. The University will not delay its proceedings while a parallel legal action is ongoing. If a criminal proceeding involving the alleged incident is ongoing, the Coordinators may contact the prosecuting authority to coordinate when feasible. Criminal or civil court proceedings are not a substitute for University procedures.

Investigation and disciplinary procedures concerning allegations of sexual violence against employees or students shall treat both parties equitably and afford them the same rights, which include:

- Be respectful of the needs and rights of individuals involved;

- Proceed as promptly as possible;

- If requested, receive a copy of this policy for their inspection and review;

- Permit a complainant and a respondent to have the same opportunity to have an appropriate support person or advisor present at any interview or hearing, in a manner consistent with applicable reporting laws;

- Allow a complainant and a respondent to gather and present evidence if they so wish or discuss allegations with to others, or offer any other facts or expert witnesses that may offer relevant evidence;

- The right to submit questions to be asked of parties and witnesses via direct hearing;
- Participate or decline to participate in the investigation; (However, a decision to refrain from participating in the process cannot prevent the process from continuing with the information available.);

- Be conducted in accordance with applicable due process standards and privacy laws;

- Have the right to review evidence gathered prior to the preparation of a report, and also to review the report and file a response in writing if desired.

- Be informed of the outcome in a timely manner, as permitted by applicable privacy law;

- Report the incident to law enforcement at any time

- Understand that information collected in the process may be subpoenaed in criminal or civil proceedings.

- When resolving allegations of dating violence, domestic violence, sexual assault, or stalking, the University will provide the accuser and the accused with the same opportunities to have others present during any institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, though the University may establish reasonable restrictions regarding the extent to which the advisor may participate in the proceedings.

- Each party will have the same meaningful access to any information that will be used during informal and formal disciplinary meetings and hearings.

After conducting all interviews and receiving all evidence, prior to completion of the investigative reports the parties will each be given an opportunity to review evidence directly related to the allegations. They will have ten days to object or respond to all
evidence in writing and present them to the investigators for their consideration. If investigators will have the option to review and consider the written responses and proceed with any additional investigation, based on the parties’ response to the evidence, if they determine that it is needed.

Following the conclusion of all investigation, the investigators will prepare a thorough report summarizing the relevant evidence. This report will be shared with both respondent and complainant. The parties will have an additional ten days to respond in writing to the report. The report and any objections will then be given to the University’s Adjudicator(s) for review. The Adjudicator(s) will then organize for a live hearing to take place.

**The Adjudicator(s)**

Adjudicators are trained University personnel tasked with the responsibility to objectively evaluate all relevant evidence contained in the Investigation report, permit parties’ advisors to conduct cross examination at the live hearing. While making decisions on the relevancy of questions. Finally, their role is to review all gathered evidence and reports, assess credibility and reach a determination regarding responsibility and prepare a write decision.

**Live Hearing**

Following the investigation, the University’s Adjudicator(s) will set up a live hearing. The hearing will allow parties to cross examine each other and any witnesses via a synchronous, live process. The parties will not interview each other directly but will do so through their advisors. If either Complainant or Respondent wish to be in a separate room, the University will arrange for separate locations linked by electronic means that allow each party to participate in real time. If a party does not have an Advisor, the University will provide one at no cost. A recording of the hearing will be available to the parties upon request.

Parties and witnesses will not be compelled to participate in a hearing, and a party’s refusal to submit to cross examination or attend the hearing will not be construed as a lack of credibility. However, if parties refuse to take part in the hearing, the University will not be able to consider any statement made by that party or witness in reaching a determination regarding responsibility. Statements to be excluded may include statements made at
hearing, written statements or positions, statements made to the investigator(s) or others, and even statements included in “police reports, SANE reports, medical records, etc. . This may mean that portions of the Investigator’s reports may need to be excluded. Similarly, if the case involves exchanges of texts or emails and both parties presented them as evidence, the University will not be allowed to consider the written messages written by a party that refuses to be cross examined at a live hearing. However tangible evidence may still be considered. This means, for instance, that the Adjudicator may be able to view a video or photograph provided by an absent witness, but not that witness’ comments about it.

During the hearing, the University’s Adjudicator(s) will be present and will review each question the advisors plan to ask. Only questions that the Adjudicator (s) considers relevant may be asked. All relevant questions and follow up questions will be allowed, including those challenging credibility. The decision-maker(s) will also have the opportunity to directly question witnesses and parties.

Adjudicators are required to be impartial and free from bias. Their job is to objectively evaluate all relevant evidence, whether favorable or unfavorable to either party, and to allow parties’ advisors to conduct cross examination.

All parties and advisors will be required to behave in a civil and respective manner to other parties. If the Adjudicator feels that an advisor is behaving in an uncivil or inappropriate way, the Adjudicator will have the right to remove that advisor and replace it with another advisor.

Questions concerning a complainant’s sexual predisposition or prior sexual behavior will not be allowed unless:

1They are offered to provide evidence that someone other than respondent committed the conduct alleged; or

2Are incidences concerning prior sexual behavior with the respondent offered to prove consent.

Questions concerning drug or alcohol use will be allowed if relevant to prove whether drugs or alcohol were present at the time of the incident and were related to incapacitation.

Questions concerning privileged information cannot be allowed. This includes:
• Any party’s medical, psychological, and similar records (unless voluntarily provided by that party)

• Any information protected by a legally recognized privilege (such like attorney-client privilege)

Written Decision

At the conclusion of the live hearing the Adjudicator(s) will meet and review all available evidence including all reports, written comments and objections from the parties, and the life hearings. The Adjudicator(s) will independently reach a determination regarding responsibility and while they will review all evidence contained in the report, they are not required to give deference to the investigative report. If, the Adjudicator(s) determine the respondent has committed sexual misconduct, the Adjudicator(s) will determine sanctions which will vary depending on the severity of the violation.

Both the complainant and respondent will be informed simultaneously, if possible, of the outcome of a sexual assault proceeding of the decision, in writing. A copy of the written decision will also be provided to the Title IX Coordinator(s).

Sanctions and Remedies

If sanctions are to be imposed the Title IX Coordinator will follow up with the appropriate department to ensure that they are implemented.

Sanctions may include the following:

Counseling (For mildest offences),

Warning

Probation,

Suspension (less than 2 years),

Suspension (2-4 years),

Suspension (5+ years),

Demotion (for employees) or
Expulsion.

The Title coordinator will also help implementing any appropriate remedies. Remedies are designed to restore or preserve the Complainant’s equal access to the University’s educational programs or activities. They may be the comprised of interim measures already adopted during the proceeding, or new ones.

Remedies may include Counseling or Training, Accommodations to class schedule, Restriction on contact and/or increased monitoring. Remedies do not require a finding of responsibility.

**Privacy and Confidentiality**

Parties have the right to discuss the case and allegations as needed, including talking to witnesses in order to gather and produce relevant evidence for their case. However, any discussion intended to intimidate or frighten any party or witness, or humiliate or disparage any party or witness would be considered Retaliation, which is a serious disciplinary violation, and would be dealt with accordingly.

The University will maintain as private as possible the identity of any individual who has made a report or complaint of sex discrimination or sexual harassment, or has been identified as the perpetrator or respondent to any such report or complaint, or is a witness to any complaint or investigation; information may be disclosed on a need to know basis.

**Timeliness**

The conduct of the investigation will be made as timely as possible in the circumstances but may vary based on the nature and complexity of the matter, the office’s workload and staffing. Written replies to a request for investigation shall sought to be made within 7 days of a written request, investigation lengths may vary but should generally not exceed 60 days except in exigent circumstances, with decisions following within 7-10 days and implementation of disciplinary measures within 7 days. Appeals may be conducted as noted below with decisions expected to be made within 21 days.
**Appeal Process**

Any disciplinary action against a student who has violated the Sexual Violence Policy may be appealed by filing a request in writing within 5 business days of receiving the written decision for a review of the decision or the sanctions imposed, with Dr. Craig Pearson, Vice President of Academic Affairs, cpearson@miu.edu (641) 472-1186. Complainants may also appeal following the same process. Both parties shall be advised of these appeal rights in writing simultaneously.

The ONLY grounds for appeal are as follows:

1. A procedural or substantive error occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.);

2. To consider new evidence, unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included; if the Vice President of Academic Affairs determines that new evidence should be considered, he will review the complaint in light of the new evidence, only. The reconsideration of the Appeal Adjudicator is not appealable.

3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

If the Vice President of Academic Affairs determines that a material, procedural or substantive error occurred, he may return the complaint to the Coordinator with instructions to cure the error. In rare cases, where the procedural or substantive error cannot be cured, the Vice President of Academic Affairs may order a new hearing on the complaint with a new hearing committee. The results of a reconvened hearing cannot be appealed. The results of a new hearing can be appealed, once, on the four applicable grounds for appeals.
Dismissals

Mandatory Dismissal: Complaints Outside the Scope of the Title IX Process

If, upon receipt of a complaint or during the Title IX process it becomes apparent that the complaint is not within the scope of Title IX, the University has the obligation to dismiss the complaint from the Title IX process. The complaint may be then referred to the purview of another conduct code or grievance process.

Permissive Dismissal

The University may dismiss a complaint (with simultaneous written notice to the parties) if at any time:

1. A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations;

2. The respondent is no longer enrolled or employed by the recipient; or

3. “Specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the formal complaint or allegations.”
Retaliation Prohibited

Actions by a student, faculty or staff member intended as retaliation, reprisal or intimidation against an individual for making a complaint or participating in any way in a report or investigation under this policy are prohibited and are subject to appropriate disciplinary action.

Informal Resolution Process

The University may (but is not required to) allow an informal resolution process after a complaint is filed, as long as it is voluntarily requested by both parties in writing (electronic consent is sufficient); except in cases where University employees are accused of harassment against students, where informal resolution is prohibited.

Once such a request is made by both parties, the University will send a notice to inform the parties in writing of the allegations, the requirements of the informal resolution process, any consequences resulting from participating in the informal process, and to obtain both parties’ voluntary and written consent to the process. Victoria Herriott, Dean of Faculty is a trained mediator who will function as the University’s neutral mediator/facilitator. Either party may withdraw from an informal resolution at any time and resume the formal complaint process.

Informal resolution facilitators must be free of bias and partiality and will help facilitate a resolution that will be in the best interest of the parties.

Methods employed may include mediation, arbitration, informal negotiation and restorative justice (a process in which the mediator/facilitator helps identify the harm done, and parties decide together how they might repair it).

If the parties involved in the informal resolution process fail to reach a mutually
agreeable outcome for the alleged conduct, the allegation will be resolved via the formal investigation process. If an agreement is reached via the informal resolution process the parties will receive a written and binding informal resolution agreement. The Agreement shall be final and cannot be appealed absent the discovery of new and material information or other similar circumstances, in which case a new investigation may be initiated. *The University will maintain all correspondence and any written agreement generated from the resolution in the title IX file but will only disseminate such to the other party under FERPA or under a Subpoena or court order.*

The University anticipates that cases eligible for resolution via the informal resolution process will be completed within 30 days of the parties’ election to use this process.

**Training for Individuals Charged with Decision-making Authority**

Individuals charged with decision-making responsibilities under applicable procedures shall receive appropriate training every year in order to facilitate a fair, respectful, and confidential procedure to address allegations of sexual violence, in accordance with this and other applicable policies, procedures and laws.

Adjudicators of the sexual assault, Violence Against Women Act (VAWA) offenses and sexual harassment cases receive annual training covering the following topics: definitions of VAWA offenses; prevalence of VAWA offenses; consent to sexual activity; impairment, intoxication and incapacitation during sex acts; role of power and control; neurobiology of trauma; range of victim-complainant; protecting the safety of victim-complainants; applying principals to proceedings. This training is provided through an online learning management system developed and updated by National Association of Clery Compliance Officers and Professionals (NACCOP) and administered by MIU Regulatory Compliance Office.
Every incoming student entry as well as new administrators and faculty are trained in the following topics: Positive healthy, mutually respectful interaction, safe bystander intervention, cultural awareness, listening and communication skills. Training is administered by HR, the Dean of Faculty’s Office, The Department of Safety and Security and the Office of Student Life. Staff Faculty and Administrators providing student education have been trained to do this by a program provided by the Crisis Intervention Center of Iowa. Programs have been adapted and tailored to the University’s culturally diverse community.

Training has also been provided to the Title IX coordinators, Investigators and Adjudicators through a live and recorded Title IX training session provided by Ahlers & Cooney, P.C.

Training is provided through different means including videos, interactive question and answers, role playing and hypothetical scenarios. Some of this same methodology is used by HR and Dean of Faculty’s office with additional means including slide presentations in the training of staff faculty and administrators.

Information Regarding Registered Sex Offenders

Information on registered sex offenders in Iowa, including the town of Fairfield can be obtained online at:

http://www.city-data.com/so/iowa.html

https://www.iowasexoffender.gov/
FAQs (Frequently Asked Questions and Answers)

Here are some commonly asked questions regarding the University’s sexual harassment policy and procedures.

*Does information about a complaint remain private?*

The privacy of all parties to a complaint of sexual misconduct will be respected by the University, except insofar as it interferes with the University's obligation to fully investigate allegations of sexual misconduct. Where privacy is not strictly kept, it will still be tightly controlled on a need-to-know basis. Dissemination of information and/or written materials to persons not involved in the complaint procedure is not permitted. Violations of the privacy of the complainant or the accused individual may lead to action by the University.
In all complaints of sexual violence, all parties will be informed of the outcome. If legally required, timely warning will be issued in order to prevent further occurrences of the crime, without using the name or identifiable information of the alleged complainant. Certain administrators are informed of the outcome within the bounds of student privacy (e.g., the President of the University, Deans of Students, Director of Campus Security and Safety). The institution also must statistically report the occurrence on campus of major violent crimes, including certain sex offenses, in an annual report of campus crime statistics. This statistical report does not include personally identifiable information.

**Will my parents be told?**

Generally, no—unless you tell them. Whether you are the complainant or the accused individual, the University's primary relationship is to the student and not to the parent. However, in the event of major medical, disciplinary, or academic jeopardy, students are strongly encouraged to inform their parents. University officials will directly inform parents when requested to do so by a student, or in a life-threatening situation, or if an accused individual has signed the permission form at registration that allows such communication.

**Will the accused individual know my identity?**

Yes, if you file a formal complaint. Sexual misconduct is a serious offense and the accused individual has the right to know the identity of the complainant/alleged complainant.

**Do I have to name the perpetrator?**
Yes, if you want formal disciplinary action to be taken against the alleged perpetrator. No, if you choose to respond informally and do not file a formal complaint (but you should consult the complete confidentiality policy above to better understand the University's legal obligations depending on what information you share with different University officials). Complainants should be aware that not identifying the perpetrator may limit the institution's ability to respond comprehensively and protect others. If you do not know the identity of the alleged perpetrator and request the University to pursue a formal investigation, we will comply with your request, it is possible that the investigation will reveal the name of the alleged perpetrator, at which point he would be formally notified that a complaint has been filed.

What do I do if I am accused of sexual misconduct?

DO NOT contact the complainant. You may immediately want to contact someone in the campus community who can act as your advisor. You may also contact the Title IX Coordinator or the Department of Student Life, which can explain the University’s procedures for addressing sexual misconduct complaints. You may also want to talk to a confidential counselor or seek other community assistance.

Will I have to pay for counseling/or medical care?

Not typically, for University provided services. In addition, the University may assist students by providing financial support for up five counseling sessions with a licensed professional if it deems it reasonable. Beyond that, if a student is accessing community and non-institutional services, payment for these will be subject to state/local laws, insurance requirements, etc.

What about legal advice?

Complainants of criminal sexual assault need not retain a private attorney to pursue
prosecution because representation will be handled by the County Attorney. You may want to retain an attorney if you are the accused individual or you are a complainant considering filing a civil action. Either party may retain counsel at their own expense if they determine that they need legal advice about criminal prosecution and/or the campus conduct proceeding. Parties may bring an advisor to a campus meeting. The advisor can be an attorney, however, the role of that person will not be to advocate for you as they would in court, or even be directly involved in the proceedings, but rather, to support you in understanding the University’s process, including and procedures or help you clarify question and concerns. A support person that violates this role can be removed by the University.
What about changing residence hall rooms?

If you want to move, you may request a room change. Room changes under these circumstances are considered emergencies. It is typically institutional policy that in emergency room changes, the student is moved to the first available suitable room. No contact orders can be imposed, and room changes can usually be arranged quickly.

What about other supportive measures?

The University’s Title IX Coordinator(s) will provide supportive measures, or accommodations, at any time, including before, during and after an investigation, or even without an investigation. Accommodations are defined as non-disciplinary, non-punitive individualized services, offered as appropriate, as reasonably available, and without fee or charge to either party. Reasonably available supportive measures do not require a finding of responsibility. To the extent possible they will be provided as discreetly as possible, though details may be shared on a need to know basis.

One of the main purposes for accommodations is to restore or preserve a party’s access to the University’s programs in reasonable comfort.

• Accommodations may not unreasonably burden either other party and are designed to protect the safety of all parties as well as the University as a whole.

In addition to relocation, available accommodations might include:

- Assistance from college support staff in completing the relocation;

- Arranging to organize room changes;

- Assistance with or rescheduling an academic assignment (paper, exams, etc.);

- Taking an incomplete (if available) in a class;

- Assistance with transferring class sections;
- Temporary withdrawal;

- Assistance with alternative course completion options;

- Provision of a reciprocal no contact directive with another party

- Counseling

- Other accommodations for safety as necessary.
What should I do about preserving evidence of a sexual assault?

The preservation of evidence of sexual assault including not only rape but dating violence, domestic violence or stalking is important for both criminal prosecution as well as the issuance of protective orders. Police are in the best position to secure evidence of a crime. Physical evidence of a criminal sexual assault of rape must be collected from the alleged complainant's person within 120 hours, though evidence can often be obtained from towels, sheets, clothes, etc. for much longer periods of time. If you believe you have been subjected to a criminal sexual assault, you should go to the local hospital Emergency Room, before washing yourself or your clothing. A campus security officer or someone through the Department of Student Life can also accompany you to the hospital and law enforcement or Student Life staff can provide transportation. If a complainant goes to the hospital, local police will be called, but s/he is not obligated to talk to the police or to pursue prosecution. Having the evidence collected in this manner will help to keep all options available to a complainant but will not obligate him or her to any course of action. Collecting evidence can assist the authorities in pursuing criminal charges, should the complainant decide later to do so.

For the Complainant: the hospital staff will collect evidence, check for injuries, address pregnancy concerns and address the possibility of exposure to sexually transmitted infections. If you have changed clothing since the assault, bring the clothing you had on at the time of the assault with you to the hospital in a clean, sanitary container such as a clean paper grocery bag or wrapped in a clean sheet (plastic containers do not breathe, and may render evidence useless). If you have not changed clothes, bring a change of clothes with you to the hospital, if possible, as they will likely keep the clothes you are wearing as evidence. You can take a support person with you to the hospital, and they can accompany you through the examination, if you want. Do not disturb the crime scene: leave all sheets, towels, etc. that may bear evidence for the police to collect.
Will a person be sanctioned when reporting a sexual harassment policy violation if he/she has illegally used drugs or alcohol?

No. The severity of the infraction will determine the nature of the University's response, but whenever possible the University will respond educationally rather than punitively to the illegal use of drugs and/or alcohol. The seriousness of sexual misconduct is a major concern and the University does not want any of the circumstances (e.g., drug or alcohol use) to inhibit the reporting of sexual misconduct.

Will either party’s prior use of drugs and/or alcohol be a factor when reporting sexual misconduct?

Not unless there is a compelling reason to believe that prior use or abuse is relevant to the present complaint.
What should I do if I am uncertain about what happened?

If you believe that you have experienced sexual violence, but are unsure of whether it was a violation of the institution’s policy, you should contact the Department of Student Life who can help you to define and clarify the event(s), and advise you of your options.