



**MOREHOUSE**  
**COLLEGE**

**MOREHOUSE COLLEGE**

**SEXUAL AND INTERPERSONAL MISCONDUCT POLICY**

**FEBRUARY 21, 2022**

**Office of Title IX, Ethics & Compliance**

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## **A. Notice of Nondiscrimination**

As a recipient of federal funds, Morehouse College is required to comply with Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681 *et seq.* (“Title IX”), which prohibits discrimination on the basis of sex in education programs or activities, admission, and employment. Inquiries concerning the application of Title IX may be referred to Morehouse College’s Title IX Coordinator or the U.S. Department of Education’s Office for Civil Rights. Morehouse College’s Title IX Coordinator is Mr. Keith Cobbs, whose office is located in Gloster Hall, Suite 105, 830 Westview Drive SW, Atlanta, Georgia 30310. Mr. Cobbs may be contacted by telephone at (470) 639-0584 or by e-mail at [keith.cobbs@morehouse.edu](mailto:keith.cobbs@morehouse.edu).

## **B. Introduction and Policy Language**

It is the policy of Morehouse College (“Morehouse” or the “College”) to maintain a work and academic environment that is free from sexual and gender-based harassment and other misconduct prohibited by this Sexual and Interpersonal Misconduct Policy (the “Policy”), including sexual misconduct, for all members of its community, including students, faculty, administrators, staff, volunteers, vendors, contractors, visitors, and individuals regularly or temporarily employed, who are conducting business, studying, living, visiting, or having any official capacity with the College or on its property. The College has enacted this Policy to reflect and maintain its institutional values and community expectations, to provide for fair and equitable procedures for determining when this Policy has been violated, and to provide recourse for individuals and the community in response to violations of this Policy.

This Policy prohibits sexual harassment, domestic violence, sexual assault, dating violence, and stalking as defined below. This Policy also prohibits retaliation against a person because they have reported, complained about, or otherwise participated in good faith in any matter related to this Policy. All of the foregoing conduct shall be referred to as “Prohibited Conduct.”

Morehouse College does not discriminate based on sex in its education, extracurricular, athletic, or other programs and activities or in the context of employment. Sex discrimination is prohibited by Title IX of the Education Amendments of 1972, a federal law that provides:

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 education program or activity receiving Federal financial assistance.

Sexual harassment is also prohibited under Title IX and Title VII of the Civil Rights Act of 1964, as amended, and other applicable statutes. This Policy prohibits sexual harassment against Morehouse College community members of any sex in education or employment.

Upon receipt of a Formal Complaint, the College will take prompt and equitable action to eliminate the Prohibited Conduct (if any), prevent its recurrence, and remedy its effects. In addition, the College will fulfill its obligations under the Violence Against Women Reauthorization Act of 2013 (“VAWA”) amendments to the Jeanne Clery Disclosure of Campus Security Policy and Campus

Crime Statistics Act (the “Clery Act”), to the extent applicable, in response to reported Prohibited Conduct.

Students, employees, or third parties who are found to have violated this Policy may face disciplinary action, including expulsion (students) or termination of employment or contractual relationship (employees or third-party contractors). Morehouse College also prohibits other forms of discrimination and harassment, as described in its Equal Employment Opportunity policy in the Morehouse Employee Handbook and Student Handbook.

This Policy and its procedures do not replace the criminal justice system. If an individual files a report with Campus Police, the Morehouse College Police Department may report to the Atlanta Police Department certain alleged crimes, including some forms of Sexual Harassment, Domestic Violence, Sexual Assault, Dating Violence, or Stalking, which occur in Fulton County in the City of Atlanta, Georgia and constitute a felony under Georgia law.

The procedures that will be used to address Prohibited Conduct (with the exception of allegations of retaliation, as explained below) can be found in the Sexual and Interpersonal Misconduct Procedures document, which will continually be published on the College’s intranet and external website.

### **C. Applicability, Jurisdiction & Authority of Title IX Coordinator**

This Policy and its procedures will apply to all community members, including students, faculty, administrators, staff, volunteers, vendors, contractors, visitors, and individuals regularly or temporarily employed, who are conducting business, studying, living, visiting, or having any official capacity with the College or on its property.

This Policy and its procedures apply exclusively to reported conduct that falls within the scope of the Policy and supersede any other previously-published College policies on issues related to sexual harassment, sexual misconduct, domestic violence, dating violence or stalking. Further, to the extent that this Policy and its procedures provide for the handling of allegations that fall within the definition of Title IX Sexual Harassment as outlined in the U.S. Department of Education’s May 2020 Title IX Regulations, see 34 C.F.R. Part 106, which definition is incorporated into this Policy as outlined below, such allegations will be handled exclusively as provided in this Policy and its procedures, rather than any policies or handbook procedures that would otherwise apply to Morehouse College students, faculty or staff.

Consistent with current Department of Education Regulations and guidance, this Policy maintains a distinction between allegations of misconduct that would fall within the scope of the Department’s May 2020 Title IX Regulations (that is, certain types of Sexual Harassment alleged to have been committed by or against students and/or employees in an Education Program or Activity of the College, in the United States, on or after the August 14, 2020 effective date of the Regulations, which are referred to in this Policy as “Title IX Sexual Harassment”), and other types of misconduct that would be covered by this Policy but that would fall outside the relatively narrow definition of Title IX Sexual Harassment (which are referred to in this Policy as “Non-Title IX

Misconduct”). This delineation of applicable Policy sections and procedures will apply regardless of when the alleged incident is reported.

In Title IX Sexual Harassment cases and Non-Title IX Misconduct cases as defined below that involve allegations that a student engaged in Prohibited Conduct as defined in this Policy, the Policy language, and procedures for either or both categories of cases outlined below will apply, as appropriate.

In Title IX Sexual Harassment cases as defined below that involve allegations that a College employee engaged in Title IX Sexual Harassment, the policy language and procedures for Title IX Sexual Harassment cases outlined below will apply, in accordance with applicable law.

Allegations that a College employee engaged in sexual assault, dating violence, domestic violence and/or stalking, and that do not fall within the definition of Title IX Sexual Harassment, will be addressed through the Non-Title IX Misconduct policy language and procedures outlined and/or referenced below.

Allegations that a College employee engaged in discrimination or harassment that does not fall within the definition of Title IX Sexual Harassment, and that does not involve alleged sexual assault, dating violence, domestic violence and/or stalking as defined in the Non-Title IX Misconduct definitions below, will be addressed through other employment-related policies, practices, and/or handbooks, instead of through the policy language or procedures outlined in this Policy.

**Dismissal (Mandatory and Discretionary):** Under the May 2020 Title IX Regulations, the College must dismiss a Formal Complaint or any particular allegations therein for Title IX purposes if, at any time prior to the reaching of a resolution, it is determined that:

- 1) The conduct alleged in the Formal Complaint would not constitute sexual harassment as defined by Title IX, even if proved;
- 2) The alleged conduct did not occur in an Education Program or Activity of the College as defined below, on or after August 14, 2020;
- 3) The alleged conduct did not occur against a person in the United States; or
- 4) At the time of filing a Formal Complaint, the Complainant is not participating in or attempting to participate in an Education Program or Activity of the College.

Even if a Formal Complaint is dismissed for Title IX purposes, it may still be investigated and resolved by the College under the Non-Title IX Misconduct provisions of this Policy and the College’s Sexual and Interpersonal Misconduct Procedures. More detail regarding these issues is provided in those procedures.

The College may dismiss a Formal Complaint, or any particular allegations therein, if, at any time prior to the reaching of a resolution:

- 1) A Complainant notifies the Title IX Coordinator, in writing, that the Complainant would like to withdraw the Formal Complaint or any of the particular allegations therein;
- 2) The Respondent is no longer enrolled in or employed by the College; or
- 3) Specific circumstances prevent the College from gathering evidence sufficient to reach a determination as to the Formal Complaint or any particular allegations therein.

Upon the mandatory or discretionary dismissal of the Formal Complaint, the College will promptly send written notice of the dismissal, and the reasons therefore, simultaneously to each Party. A dismissal decision is appealable by either party.

Within two (2) business days of receiving notice of the dismissal, either Party submitting an appeal must set forth, in writing, in detail, the grounds for review, and attach all material that he/she wishes to have considered in the appellate process. A Party may only appeal a dismissal on the following grounds:

- 1) A procedural irregularity occurred that affected the Title IX Coordinator's dismissal decision;
- 2) There is new evidence that was not reasonably available at the time of the determination regarding dismissal that could affect the Title IX Coordinator's dismissal decision; and/or
- 3) The Title IX Coordinator had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the Title IX Coordinator's dismissal decision.

Appeals of dismissal decisions must be submitted to the College's Senior Vice President and Chief Administrative Officer, who will serve as the College's Appellate Officer with respect to dismissal decisions. The decision of the Appellate Officer is final.

A Complainant who decides to withdraw a Complaint may later request to reinstate it or refile it. If some of the conduct alleged in a Formal Complaint falls within the Policy's definition of Title IX Sexual Harassment and some of the conduct alleged falls within the Policy's definition of Non-Title IX Misconduct, the College will, absent extraordinary circumstances as determined by the Title IX Coordinator, address all of the allegations through the procedures applicable to Title IX Sexual Harassment Matters, as described below.

If a Formal Complaint is dismissed for Title IX purposes but the allegations of the Complaint fall within the definition of Non-Title IX Misconduct stated in the Policy or misconduct prohibited by other College policies, the Title IX Coordinator will transfer the Complaint for handling under appropriate procedures, which may include but are not limited to the Non-Title IX Misconduct procedures outlined below, as deemed appropriate by the Title IX Coordinator. Investigation and resolution of a matter that does not fall within the definition of Title IX Sexual Harassment or Non-

Title IX Misconduct may be pursued, dismissed altogether, or transferred to another College process, as deemed appropriate in the College's discretion and/or as appropriate under applicable law.

## **D. Definitions**

### **Prohibited Conduct:<sup>1</sup>**

This Policy prohibits the following forms of misconduct, collectively referred to above, below and throughout the Policy as "Prohibited Conduct":

**Title IX Sexual Harassment** (i.e., *Quid Pro Quo* Sexual Harassment, Severe, Pervasive and Objectively Offensive Sexual Harassment, Sexual Assault, and Domestic Violence, Dating Violence, and sex-based Stalking within the scope of Title IX); and

**Non-Title IX Misconduct** (i.e., Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, and Stalking outside the scope of Title IX, and Sexual Exploitation as defined below).

Specifically, Title IX Sexual Harassment and Non-Title IX Misconduct are defined as follows for purposes of this Policy:

### **Title IX Sexual Harassment**

"Title IX Sexual Harassment" is a subset of Prohibited Conduct. Under Department of Education Regulations (see 34 C.F.R., Part 106) issued in May 2020 (the "May 2020 Title IX Regulations") to implement Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681 *et seq.*, the College is required to prohibit certain forms of sexual harassment as defined in those Regulations. Title IX Sexual Harassment is Prohibited Conduct in the form of Title IX *Quid Pro Quo* Sexual Harassment, Title IX Severe, Persistent and Pervasive Sexual Harassment, Title IX Sexual Assault, Title IX Dating Violence, Title IX Domestic Violence, or Title IX Stalking as defined below that

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<sup>1</sup> The definitions of dating violence, domestic violence, sexual assault, and stalking used in this Policy are consistent with the Clery Act, as amended effective 2014, and Title IX and May 2020 Title IX Regulations. In its primary prevention and awareness programs for incoming students and new employees, as well as in its primary prevention and awareness programs for students and employees, the College will include the definitions of dating violence, domestic violence, sexual assault, and stalking under the criminal law of Georgia. Georgia law provides, for example, that "[s]exual offenses involving two men, or two women, that may otherwise be considered rape are charged as aggravated sodomy or sexual battery in Georgia." <https://www.findlaw.com/state/georgia-law/georgia-rape-and-statutory-rape-laws.html>. However, the College utilizes its own definitions of these prohibited behaviors, which are consistent with the Clery Act and Title IX and the May 2020 Title IX Regulations as set forth below, for purposes of this Policy, and determines responsibility for violations of this Policy through its own procedures and standards of proof (i.e., by a preponderance of the evidence standard), not through the procedures or standards of proof employed in the criminal justice system.

is committed by or against students and/or employees in an Education Program or Activity of the College, in the United States, on or after August 14, 2020. Further, in order for the College to consider a Formal Complaint of such misconduct as falling within its Title IX Sexual Harassment Policy and procedures, the Complainant must be participating in or attempting to participate in a College program or activity at the time the complaint is filed.

Conduct takes place within an Education Program or Activity of the College when that conduct occurs: (1) in a location, at an event, or in a circumstance where the College exercises substantial control over both the Respondent and the context in which the conduct occurs; or (2) in any building owned or controlled by a student organization recognized by the College. Conduct that occurs off campus in locations or at events with no connection to the College is unlikely to have occurred in a program or activity of the College.

A complaint about conduct that does not meet this strict definition for Title IX Sexual Harassment is still prohibited by this Policy if it otherwise constitutes Prohibited Conduct within the definition of Non-Title IX Misconduct as defined below.

The following Prohibited Conduct definitions apply for purposes of the definition of Title IX Sexual Harassment:

#### **Title IX Quid Pro Quo Sexual Harassment**

*Quid Pro Quo* Sexual Harassment for purposes of the Title IX Sexual Harassment definition is conduct on the basis of sex committed in an Education Program or Activity of the College in the United States on or after August 14, 2020, by which an employee of the College conditions the provision of an aid, benefit, or service of the College on a student's or employee's participation in unwelcome sexual conduct.

*Quid Pro Quo* Sexual Harassment may involve circumstances where a position of authority is used to threaten to impose a penalty or to withhold a benefit for sexual favors, whether or not the attempt is successful. Such sexual harassment may involve behavior by a person of either gender against a person of the same or opposite gender. Here and subsequently, "employees" refers to faculty, staff, and administration. Because of the inherent differential in power between College employees and students, sexual relationships between employees and students are prohibited.

#### **Title IX Severe, Pervasive and Objectively Offensive Sexual Harassment**

Severe, Pervasive and Objectively Offensive Sexual Harassment for purposes of the Title IX Sexual Harassment definition is conduct on the basis of sex committed in an Education Program or Activity of the College in the United States on or after August 14, 2020, that constitutes unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a student or employee equal access to a College Education Program or Activity. Determinations of whether a Complainant has been denied equal access will be made by comparing the Complainant's access to education to that of a similarly situated person who is not suffering the alleged sexual harassment.



Severe, Pervasive and Objectively Offensive Sexual Harassment can be committed by anyone involved in the College's Education Program or Activities (e.g., administrators, faculty members, staff members, students, or campus visitors).

Explicit behaviors that may constitute or contribute to such sexual harassment may include, but are not limited to, requests for sexual favors, physical assaults of a sexual nature, sexually offensive remarks, and rubbing, touching, or brushing against another's body (some of these examples may also constitute sexual assault as defined below). More subtle behaviors may be experienced as such sexual harassment, particularly when they recur, or where one person has authority over another. Such behaviors may include but are not limited to unwelcome hugs or touching, inappropriate staring, veiled suggestions of sexual activity, requests for meetings in non-academic settings, and risqué jokes, stories, or images.

## **Title IX Sexual Assault**

As required by the May 2020 Title IX Regulations, the College's Title IX Sexual Assault definition incorporates the definitions of the FBI's Uniform Crime Reporting (NIBRS) program, and therefore defines Title IX Sexual Assault for purposes of this Policy as conduct of the following types committed by or against a College student or employee in an Education Program or Activity of the College in the United States on or after August 14, 2020:

- **Rape:**<sup>2</sup>
  - The carnal knowledge of a person (i.e., penile-vaginal penetration), without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity (it should be noted that either females or males could be Complainants under this definition);
  - Oral or anal sexual intercourse (i.e., penile penetration) with another person, without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
  - To use an object or instrument (e.g., an inanimate object or body part other than a penis) to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity;
- **Fondling:** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of that person, including instances where the person is incapable of giving consent because of their age or because of their temporary

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<sup>2</sup> Both completed rape and attempted rape are prohibited by this Policy. The FBI NIBRS definition of "sodomy" is included in the College's definition of rape, above.

or permanent mental or physical incapacity (for purposes of this definition, “private body parts” includes breasts, buttocks, or genitals, whether clothed or unclothed);

- **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or
- **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.

Sexual assault can be committed by any person against any other person, regardless of gender, gender identity, sexual orientation, or past or current relationship status. Sexual assault may occur with or without physical resistance or violence.

### **Title IX Dating Violence**

Title IX Dating Violence for purposes of the Title IX Sexual Harassment definition is conduct on the basis of sex committed in an Education Program or Activity of the College in the United States on or after August 14, 2020, that constitutes violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the reporting party’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. *See* 34 U.S.C. § 12291(a)(10).

For the purposes of this definition:

- (A) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- (B) Dating violence does not include acts covered under the definition of domestic violence.

### **Title IX Domestic Violence**

Title IX Domestic Violence for purposes of the Title IX Sexual Harassment definition is conduct on the basis of sex committed in an Education Program or Activity of the College in the United States on or after August 14, 2020, that constitutes a felony or misdemeanor crime of violence committed:

- (A) By a current or former spouse or intimate partner of the victim;
- (B) By a person with whom the victim shares a child in common;
- (C) By a person who is cohabiting with, or has cohabited with, the victim as a spouse or intimate partner;

(D) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or

(E) 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 in which the crime of violence occurred. *See* 34 U.S.C. § 12291(a)(8).

## **Title IX Stalking**

Title IX Stalking for purposes of the Title IX Sexual Harassment definition is conduct on the basis of sex committed in an Education Program or Activity of the College in the United States on or after August 14, 2020, that constitutes engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(A) Fear for the person's safety or the safety of others; or

(B) Suffer substantial emotional distress. *See* 34 U.S.C. § 12291(a)(30).

For purposes of this definition:

(A) 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.

(B) Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

(C) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

## **Non-Title IX Misconduct**

Non-Title IX Misconduct is Prohibited Conduct that falls within the scope of this Policy and the definitions below but that does not fall within the definition of Title IX Sexual Harassment, either due to the nature of the conduct or because it did not reportedly occur within an Education Program or Activity of the College in the United States on or after August 14, 2020. Such conduct is defined for purposes of this Policy as:

## **Non-Title IX Sexual Harassment**

Non-Title IX Sexual Harassment is a form of sex discrimination that includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working, shared living, or educational environment, on the basis of sex. The College will determine whether conduct falls

within this definition by using both an objective standard (that is, would a reasonable person experience the conduct as intimidating, hostile or offensive as defined here) and a subjective standard (that is, did the person actually perceive the conduct as intimidating, hostile or offensive as defined here).

When it falls within the definition stated here, sexual harassment may involve individuals of the same or different sex or gender and may include a range of behaviors including, but not limited to, words, signs, jokes, pranks, sexual propositions, sexual innuendo, suggestive comments, foul or obscene language, violations of personal space, intimidation, physical contact, or violence.

Reported conduct that falls within the scope of this definition may be investigated and/or addressed by the College office, procedure or officer deemed most appropriate by the College as deemed appropriate by the College, even if it occurs outside of, rather than on, Morehouse's premises.

Sexual Harassment that meets the definition of Title IX Sexual Harassment outlined above will be addressed under the procedures for Title IX Sexual Harassment provided in this Policy.

### **Non-Title IX Sexual Assault**

Sexual Assault (i.e., rape, fondling, incest, or statutory rape) as defined in the Title IX Sexual Assault definition above that did not reportedly occur in a program or activity of the College in the United States and attempts to commit such misconduct.

### **Non-Title IX Domestic Violence**

Domestic violence as defined in the Title IX Domestic Violence definition above that did not reportedly occur in a program or activity of the College in the United States on or after August 14, 2020.

### **Non-Title IX Dating Violence**

Dating violence as defined in the Title IX Dating Violence definition above that did not reportedly occur in a program or activity of the College in the United States on or after August 14, 2020.

### **Non-Title IX Stalking**

Stalking as defined in the Title IX Stalking definition above that did not reportedly occur in a program or activity of the College in the United States on or after August 14, 2020, or that otherwise fits within the definition of stalking but does not fall within the Title IX Stalking definition because the reported conduct is not directed at the Complainant on the basis of sex.

### **Non-Title IX Sexual Exploitation**

Non-Title IX Sexual Exploitation occurs when a person takes sexual advantage of another person for the benefit of anyone other than that other person without that other person's consent and attempted sexual exploitation. Examples of sexually exploitative behavior include, but are not

limited to: (1) video recording or photographing of sexual acts or nudity of another member of the College community without the consent of a person involved; (2) transmitting such video recordings or photographs without the consent of the person involved; (3) viewing or allowing or aiding others to view another person's sexual activity, intimate body parts, or nudity without the person's consent; and (4) sexual exhibitionism or exposure of one's genitalia in the presence of others without their consent.

### **Online Harassment and Cyberbullying**

The definitions of prohibited harassment above are written and interpreted to include online and cyber manifestations of any of the behaviors prohibited, when those behaviors occur in or have an effect on the College's Education Program and Activities, otherwise violate the Policy, and/or use College networks, technology, or equipment. Although the College may not control websites, social media, or other venues in which harassing communications are made, when such communications are reported to College, it will engage in a variety of means to address and mitigate the effects to the extent reasonably practicable. Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via Snaps or other social media, unwelcome sexting, revenge porn, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the College community in violation of this Policy.

### **Retaliation**

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing.

Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment but arise out of the same facts or circumstances as a report or complaint of sex discrimination or a report or Formal Complaint of sexual harassment may constitute retaliation, where such charges are made for the purpose of interfering with any right or privilege secured by Title IX.

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

### **E. Additional Definitions**

Members of the campus community should know that an individual can violate College Policy even though they may not have broken the law. The College process is administrative in nature and has a different burden of proof and uses different definitions of misconduct than those used in criminal law.

## **Aiding, Abetting, or Inciting**

Refers to participating in, soliciting, directing, or assisting in Sexual Assault, Sexual Harassment, Domestic Violence, Dating Violence, or Stalking.

## **Advisor**

“Advisor” means a person chosen by a Party or appointed by the institution to accompany the Party to meetings related to the resolution process, to advise the Party on that process, and to conduct cross-examination for the Party at the hearing, if any.

## **Consent**

“Consent” is:

- 1) knowing, and
- 2) voluntary, and
- 3) clear permission
- 4) by word or action
- 5) to engage in sexual activity.

Since individuals may experience the same interaction in different ways, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated by words or actions. If consent is withdrawn, that sexual activity should cease immediately.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the College to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

Consent in relationships must also be considered in context. When parties consent to bondage, discipline/dominance, submission/sadism, masochism or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual, so the College’s evaluation of communication in kink situations should be guided by reasonableness and the evidence in a particular case, rather than strict adherence to a consent definition that assumes non-kink relationships as a default.

### **Complainant**

“Complainant” means an individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on a protected class or retaliation for engaging in a protected activity.

### **Complaint (Formal)**

“Complaint (Formal)” means a document filed/signed by a Complainant or signed by the Title IX Coordinator alleging harassment or discrimination based on a protected class or retaliation for engaging in a protected activity against a Respondent and requesting that the College investigate the allegation.

### **Confidential Resource**

“Confidential Resource” means an employee who is not a Mandated Reporter of notice of harassment, discrimination, and/or retaliation (irrespective of Clery Act status).

### **Education Program or Activity**

“Education Program or Activity” includes locations, events, or circumstances over which the College exercised substantial control over the Complainant, Respondent, and the context in which the sexual harassment occurs. It also includes any building owned or controlled by a student organization officially recognized by Morehouse College.

### **Final Determination**

A conclusion, based on the preponderance of the evidence, as to whether or not the alleged conduct occurred, and whether or not it violated the Policy.

## **Formal Grievance Process**

A method of formal resolution designated by the College to address conduct that falls within the policies, and which complies with the requirements of 34 CFR Part 106.45.

### **Force**

The use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that overcomes resistance or produces consent (e.g., “Have sex with me or I’ll hit you,” “Okay, don’t hit me, I’ll do what you want.”).

- 1) There is no requirement that a person must resist or attempt to resist a sexual advance or request, but resistance is a clear demonstration of non-consent.
- 2) Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not, by definition, forced.

### **Hearing Decision-maker (Panel or Officer)**

Refers to those who have decision-making and sanctioning authority within the College’s Formal Grievance process.

### **Incapacitation**

A person lacks the capacity to consent to sexual activity because the person is: asleep, unconscious, mentally, or physically helpless, or otherwise unaware that sexual activity is occurring.

- 1) Incapacitation is not necessarily the same as legal intoxication.
- 2) Where alcohol or other drugs are involved, evaluating Incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects a person’s:
  - a. decision-making ability and/or awareness of consequences;
  - b. ability to make informed, rational judgments;
  - c. capacity to appreciate the nature and quality of the act;
  - d. and/or level of consciousness.
  - e. A person’s level of intoxication is not always demonstrated by objective signs; however, some signs of intoxication may include clumsiness, difficulty walking, poor judgment, difficulty concentrating, slurred speech, vomiting, combativeness, or emotional volatility.



- f. An effect of alcohol consumption can be memory impairment or forgetting events entirely or partially (sometimes referred to as a “black-out” or “brown-out”). A person may experience this symptom while appearing to be functioning “normally,” including communicating through actions or words that seem to express an interest in engaging in sexual conduct. Whether sexual conduct with a person who is “black-out” constitutes Prohibited Conduct depends on the presence or absence of observable factors indicating that a person is also incapacitated. Total or partial loss of memory alone may not be sufficient, without other evidence, to prove that a person was incapacitated under this Policy.
- 3) The assessment is based on objectively and reasonably apparent indications of Incapacitation when viewed from the perspective of a sober, reasonable person (this means that a Respondent’s inability to determine whether or not a Complainant is incapacitated because of the Respondent’s own intoxication will not be accepted as a defense or excuse for a violation of this Policy).
- 4) **Intentional Incapacitation** means providing alcohol or other drugs to a person with the intent to render the person Incapacitated.

### **Live Hearing**

Live Hearings are conducted by the College in Title IX Sexual Harassment matters, to the extent required by the May 2020 Title IX Regulations. More detail regarding Live Hearings is provided in the Morehouse College Title IX Sexual Harassment procedures. A Live Hearing may be conducted with all parties physically present in the same geographic location or, at the College’s discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other. At the live hearing, the decision-maker(s) must permit each Party’s advisor to ask the other Party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.

The College will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review.

### **Maxient**

“Maxient” is a software for managing student conduct records. This system will serve as the software for all relevant Title IX records. All records will be kept confidential and will only be shared with College officials with a legitimate educational interest and/or where necessary in exigent circumstances or to protect the community’s safety.

### **Reporting Party**

A person who is aware of and reports a possible violation under the Sexual Misconduct Policy on behalf of a reported victim, but who is not personally the reported victim of the misconduct.

## **Remedies**

Remedies must be designed to restore or preserve equal access to the College's Education Program or Activity. Such treatments may include the same individualized services described in § 106.30 of the May 2020 Title IX Regulations and/or in this Policy as "supportive measures"; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.

## **Respondent**

An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

## **Supportive Measures**

Are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. The College will provide supportive measures to individual with or without the filing of a Formal Complaint.

Supportive measures are designed to restore or preserve equal access to the College's Education Program or Activity without unreasonably burdening the other Party, including measures designed to protect the safety of all Parties or the College's educational environment or deter sexual harassment.

Supportive measures may include, but are not limited to, counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the Parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, a persona non-grata, and other similar measures.

The College may not impose non-disclosure orders on either Party prohibiting discussing of the allegations under investigation or the gathering and presentation of relevant evidence.

## **Student Organization**

A recognized Morehouse student organization, group, or team including but not limited to those devoted to academic, athletic, cultural, Greek life, leadership, pre-professional, or other student activities.

## **Third-Party**

A "Third-Party" refers to any other participant in the process, including a witness or an individual who makes a report on behalf of the Complainant.

## **Title IX Coordinator**

The designated College official with ultimate oversight and responsibility for the College's compliance with Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681 *et seq.*, implementing Regulations and relevant supplemental guidance.

### **F. Confidentiality – Respect for Privacy**

The College is committed to protecting the privacy of all individuals involved in the investigation and resolution of reports under this Policy. The College also is committed to assisting students, employees, and third parties in making informed choices. With respect to any report under this Policy, the College will make reasonable efforts to protect the privacy of participants, in accordance with applicable state and federal law, while balancing the need to gather information to take steps to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects. All College students and employees who are involved in the College's Title IX response will receive specific instruction about respecting and safeguarding private information.

#### **When a Complainant Requests Confidentiality and Elects Not to Proceed with an Investigation:**

If the Complainant does not wish to proceed with an investigation and/or requests that their report remains confidential, the College may still be required to investigate and take reasonable corrective action in response to the Complainant's information. In such a case, the College's ability to respond may be limited.

- 1) The Title IX Coordinator will weigh the Complainant's request(s) for confidentiality and/or wish not to proceed with an investigation against the College's obligation to provide a safe, non-discriminatory environment.
- 2) Specifically, the Title IX Coordinator will consider the following factors:
  - a. The seriousness of the alleged misconduct;
  - b. Whether there have been other complaints of Sexual Misconduct or Sex Discrimination against the accused at the College or any other school or in the nature of prior criminal charges;
  - c. Whether the accused threatened further misconduct or violence against the Complainant or others;
  - d. Whether multiple persons committed Sexual Misconduct or Sex Discrimination;
  - e. Whether the Sexual Misconduct involved the use of a weapon;
  - f. The age of the Complainant;

- g. Whether the College possesses other means to obtain relevant evidence of the misconduct;
- h. Whether the Complaint reveals a pattern of conduct at a particular location or by a particular individual and or student group or organization;
- i. And any other information that is relevant under the circumstances.

The Title IX Coordinator or designee will inform the Complainant if the College cannot ensure confidentiality. In an instance where the College must disclose a Complainant's identity, the Title IX Coordinator or designee will inform the Complainant prior to making the disclosure.

#### **G. Actual Knowledge, Officials with Authority, and Mandated Reporters**

- 1) **Actual Knowledge** means notice of Prohibited Conduct or allegations of Prohibited Conduct provided to the College's Title IX Coordinator or a designated Official with Authority who has the authority to institute corrective measures on behalf of the College.
- 2) **Official with Authority** means an employee of the College explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of the College, e.g., Title IX Coordinator and Title IX Deputy Coordinators.
- 3) **All Employees and Students** serving in a leadership position are considered by the College to be Mandated Reporters except for confidential Employees who receive information within the scope of a legally-recognized confidentiality privilege. Mandated Reporter means an Employee of the College who is obligated by College policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator or a Deputy Title IX Coordinator. This includes all Employees with supervisory or leadership responsibilities on campus, including, but not limited to, Vice Presidents, Deans, Directors, Faculty, Coaches, Assistant Coaches, Residential Life Staff, and Administrators. Student leaders are considered mandated reporters, including, but not limited to, leaders of the Student Government Association, Resident Advisors, and officers of College-recognized Morehouse Campus Organizations.

The College requires that all mandated reporters share a report of misconduct with the Title IX Coordinator or a Deputy Title IX Coordinator. The purpose of this requirement is to permit the College to take appropriate action to respond to Prohibited Conduct allegations. Generally, anonymous or identified disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, and/or at events such as "Take Back the Night" marches, social media blogs, or speak-outs do not provide notice that must be reported to the Title IX Coordinator or a Deputy Title IX Coordinator unless the Complainant clearly indicates that they desire a report to be

made and direct that communication to a Mandated Reporter or seek a specific response from the College. Supportive measures may be offered as the result of such disclosures without formal College action.

Failure of a Mandated Reporter, as described above in this section, to report an incident of harassment or discrimination of which they become aware is a violation of College policy, and the Mandated Reporter can be subject to disciplinary action for failure to comply.

## **H. Reporting Options**

**Confidential Employees** are those individuals who have a legally-recognized confidentiality privilege.

- 1) These confidential employees (i.e., health care professional, licensed counselors, etc.) can fulfill their reporting requirements by making general reports for statistical purposes and pattern tracking but do not divulge personally identifiable information without client consent.
- 2) Employees who do not have a confidentiality privilege should not promise confidentiality to Parties. An employee can tell a Party that he/she will only tell the individuals that must know and do his/her best to protect the Party's identity but cannot promise confidentiality. If the Parties want confidentiality, then he/she must be referred to a confidential employee (i.e., health care provider or licensed counselor).

These confidential resources are not required by current Title IX law to report sexual misconduct claims without consent but may make general reports to the Office of Title IX for statistical purposes and pattern tracking. A confidential report is required by state law to notify child protective services and/or local law enforcement of suspected abuse of a minor under the age of 18.

## **Confidential Resources**

- 1) **Student Counseling and Accessibility Center**  
Brazeal Hall, Ground Floor (north end of campus)  
830 Westview Drive SW  
Atlanta, Georgia 30314  
Telephone: (470) 639-0231
- 2) **James B. Ellison, Sr. Student Health Center**  
Brazeal Hall, Ground Floor (north end of campus)  
830 Westview Drive SW  
Atlanta, Georgia 30314  
Telephone: (404) 215-2637

- 3) **Martin Luther King, Jr. International Chapel at Morehouse College**  
830 Westview Drive SW  
Atlanta, Georgia 30314  
Telephone: (470) 639-0323

### **Campus Reporting Options**

The College strongly encourages all individuals to report any violation of this Policy to the Title IX Coordinator, a Deputy Title IX Coordinator, or any College employee who is designated as an Official with Authority in person, by telephone, in writing, or by e-mail. Morehouse designates the Title IX Coordinator as the individual charged with coordinating efforts to comply with Title IX. The Title IX Coordinator addresses and oversees the investigation and resolution of all complaints related to sexual and gender-based harassment, as defined by this Policy, involving students, faculty, staff, visitors, and third parties.

An individual can file a complaint with, or give verbal notice to, the Title IX Coordinator or deputy/deputies/Officials with Authority. Such a report may be made at any time (including during non-business hours) by using the telephone number or e-mail address, or by mail to the office address, listed for the Title IX Coordinator or any other official listed.

Individuals can also report online, using the reporting form posted at <http://www.morehouse.ethicspoint.com/>. Anonymous reports are accepted but the College's ability to investigate them may be limited. The College tries to provide supportive measures to all Complainants, which is impossible with an anonymous report. Because reporting carries no obligation to initiate a formal response, and as the College respects Complainant requests to dismiss complaints unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of privacy by making a report that allows the College to discuss and/or provide supportive measures. If notice of an incident is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

The Title IX Coordinator or Deputy Title Coordinators meet with any person to provide information about resources, supportive measures, and options for investigation and resolution under this Sexual Misconduct Policy.

- 1) **Mr. Keith Cobbs, Title IX Coordinator**  
Title IX Office, Ethics & Compliance  
830 Westview Drive SW  
Gloster Hall, Room 105  
Atlanta, Georgia 30314  
Telephone: (470) 639-0584  
E-Mail: [keith.cobbs@morehouse.edu](mailto:keith.cobbs@morehouse.edu)

- 2) **Mr. Michael E. Johnson**  
Deputy Title IX Coordinator and Associate Vice President of Human Resources  
830 Westview Drive SW  
Gloster Hall, Suite 100  
Atlanta, Georgia 30314  
Telephone: (470) 639-0514  
E-Mail: [michael.johnson1@morehouse.edu](mailto:michael.johnson1@morehouse.edu)
- 3) **Dr. Michael Turner**  
Deputy Title IX Coordinator and Director of Student Relations and Ombudsperson  
830 Westview Drive SW  
Kilgore Student Center, Suite 200  
Atlanta, Georgia 30314  
Telephone: (470) 639-0519  
E-Mail: [michael.turner@morehouse.edu](mailto:michael.turner@morehouse.edu)
- 4) **Ms. Youdlyne Renard**  
Deputy Title IX Coordinator and Athletic Advisor  
830 Westview Drive SW  
Frederick Douglass Academic Center  
Atlanta, Georgia 30314  
Telephone: (470) 639-0832  
E-Mail: [youdlyne.renard@morehouse.edu](mailto:youdlyne.renard@morehouse.edu)
- 5) **Ms. Qusiha Buggs**  
Deputy Title IX Coordinator and Student Success Specialist  
830 Westview Drive SW  
Frederick Douglass Academic Center  
Atlanta, Georgia 30314  
Telephone: (470) 639-0487  
E-Mail: [quisha.buggs@morehouse.edu](mailto:quisha.buggs@morehouse.edu)

Morehouse College's Title IX Coordinator oversees College compliance regarding all Title IX-related matters, including the investigation of complaints. Responsibilities include, but are not limited to, the following:

- a. Ensure Title IX compliance and the equitable treatment of Complainants and Respondents;
- b. Serve as Official(s) with Authority;
- c. Oversee Deputy Title IX Coordinator(s);
- d. Assess initial intake reports;
- e. Be knowledgeable about College policies and procedures;

- f. Provide information about resources available to both Complainants and Respondents;
- g. Assign appropriate investigators to individual cases;
- h. Identify the applicable College policy to resolve the complaint in a prompt and equitable manner;
- i. Track and monitor incidents of sex discrimination and sexual misconduct;
- j. Provide information on options for complaint resolution;
- k. Coordinate education and prevention efforts; and
- l. Report crimes to the Clery Administrator for reporting in the ASR.

As a service to the College, the Morehouse College's Deputy Title IX Coordinator(s) are trained to receive initial intake and, if designated by the Title IX Coordinator, investigate any employee on student complaints. Deputy Title IX Coordinator responsibilities include, but are not limited to, the following:

- a. Support and assist the Title IX Coordinator;
- b. Serve as Official(s) with Authority;
- c. Be knowledgeable about College policies and procedures;
- d. Provide information about resources available to both the Complainant and Respondent;
- e. Hear and/or receive initial intake (fact-gathering);
- f. Report complaints and intake reports to Title IX Coordinator for assessment;
- g. Investigate complaints (if designated by the Title IX Coordinator); and
- h. Report crimes to the Clery Administrator for reporting in the ASR.

Inquiries or complaints concerning the application of Title IX may be referred to the Title IX Coordinator and/or the United States Department of Education:

United States Department of Education  
 Office for Civil Rights  
 61 Forsyth Street SW, Suite 19T70  
 Atlanta, Georgia 30303  
 Telephone: (404) 974-9406



Facsimile: (404) 974-9471  
E-Mail: [OCR.Atlanta@ed.gov](mailto:OCR.Atlanta@ed.gov)

Morehouse Campus Police are available to receive reports of any incident of crime or violence and any incidents involving Prohibited Conduct. Morehouse Campus Police and the 24-hour Ethics & Compliance Hotline may be reached at the following telephone numbers:

1. **Morehouse College Campus Safety**  
830 Westview Drive SW  
Robert Hall Annex  
Atlanta, Georgia 30314  
Telephone: (404) 215-2666  
E-Mail: [mcpd@morehouse.edu](mailto:mcpd@morehouse.edu)
2. **Emergency: Dial 911**
3. **Morehouse College - Ethics & Compliance Hotline**  
24-hours a day, seven days a week  
(888) 299-9540  
<http://www.morehouse.ethicspoint.com/>

## **I. Rights and Protections**

### **Supportive Measures**

Upon receipt of a Formal Complaint, in person, by telephone, in writing, or by e-mail, the College will provide reasonable and appropriate supportive measures designed to eliminate any existing hostile environment and protect the Parties involved.

Supportive Measures are non-disciplinary services offered as appropriate, as reasonably available, and without fee or charge to both the Complainant or Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. These Supportive Measures are designed to restore or preserve equal access to the College's Education Program or Activity without unreasonably burdening the Complainant and Respondent, including measures designed to protect the safety of all Parties or the College's educational environment, or deter sexual harassment. The College offers to support students through access to the following services:

- 1) Supportive Measures may be provided or implemented regardless of whether formal disciplinary action is sought by the Complainant or the College, and irrespective of whether a crime is reported to Campus Police or local law enforcement.
- 2) A Complainant or Respondent may request a "No-Contact Order" or other protection. The College may choose to impose Supportive Measures at its discretion to promote the safety of all Parties, the broader College community, and/or the integrity of the process.

- 3) The College will maintain the privacy of any supportive measures provided under this Policy to the extent practicable and will promptly address any violation of the supportive measures. All individuals are encouraged to report concerns about the failure of another individual to abide by any restrictions imposed by a supportive measure. The College would take immediate and responsive action (through, by way of example but not limitation, the College's student conduct process or Human Resources as deemed appropriate) to enforce a previously implemented restriction if such limits were violated.
- 4) Supportive Measures will be implemented at the discretion of the College. Supportive measures may include, but are not limited to, examples in the list below, regardless of whether the Respondent is a student or an employee. Supportive measures may continue after a case is resolved if it is in the best interest of the Complainant, Respondent, or the campus community.

**Examples of Supportive Measures for Students may include, but are not limited to:**

- a. Referral to counseling, medical, and/or other healthcare services;
- b. The imposition of campus No-Contact Order and/or Persona Non-grata;
- c. Rescheduling of exams and assignments;
- d. Providing alternative course completion options;
- e. Change in the class schedule;
- f. Change in work schedule or job assignment;
- g. Change in on-campus housing;
- h. Limit an individual or organization's access to certain College facilities or activities pending resolution of the matter.

**Examples of Supportive Measures for Employees may include, but are not limited to:**

- a. Referral to the Employee Assistance Program;
- b. Modifications of work schedules;
- c. Mutual restrictions on contact between the Parties;
- d. Changes in work or housing locations;
- e. Leaves of absence;

- f. Increased security and monitoring of certain areas of the campus.

### **Emergency Removal in Title IX Sexual Harassment Matters**

Where the allegations of a matter fall within the definition of Title IX Sexual Harassment provided above, the College may remove a Respondent from the College's Education Program or Activity on an emergency basis, provided that the College undertakes an individualized safety and risk analysis, and determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Prohibited Conduct justifies removal, and provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act, as amended. As deemed appropriate, a threat assessment and management team may be consulted regarding individualized safety and risk analyses.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the Emergency Removal is appropriate.

The College will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. These actions may include but are not limited to removing a student from a residence hall, restricting a student's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics. At the discretion of the College, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

### **Emergency Removal in Non-Title IX Misconduct Matters**

Where the allegations of a matter fall within the definition of Non-Title IX Misconduct provided above (but not Title IX Sexual Harassment), the College may decide to remove a Respondent from any or all aspects of the College's Education Program or Activity at its discretion and/or as permitted by any specifically-applicable student or employee policies or procedures.

### **Administrative Leave in Title IX Sexual Harassment Matters**

Where the allegations of a matter fall within the definition of Title IX Sexual Harassment provided above, the College may place a non-student employee Respondent on administrative leave during the pendency of a grievance process that complies with § 106.45 of the May 2020 Title IX Regulations. This provision may not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act. The Title IX Coordinator or Deputy Coordinator, in their sole discretion and on a case-by-case basis, will decide whether administrative leave during the pendency of an investigation will be with pay (or benefits) or without pay (or benefits). The decision to place an employee on administrative leave with pay (or benefits) or without pay (or benefits) is final and may not be challenged. This does not apply to

student employees; administrative leave questions pertaining to student employees will be handled on a case-by-case basis, in accordance with applicable law and guidance.

### **Administrative Leave in Non-Title IX Misconduct Matters**

Where the allegations of a matter fall within the definition of Non-Title IX Misconduct provided above (but not Title IX Sexual Harassment), the College may decide to place a student or non-student employee on administrative leave at its discretion and/or as permitted by any specifically-applicable student or employee policies or procedures.

### **Protection from Retaliation**

Neither the College nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in a Title IX investigation, proceeding, or hearing.

Intimidation, threats, coercion, or discrimination including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment but arise out of the same facts or circumstances as a report or complaint of sex discrimination or a report or Formal Complaint of sexual harassment may constitute retaliation, where such charges are made for the purpose of interfering with any right or privilege secured by Title IX.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this part does not constitute retaliation prohibited by Title IX; provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any Party made a materially false statement in bad faith.

The College will take responsive action to any report of retaliation and pursue disciplinary action as appropriate. Any individual reporting Prohibited Conduct is entitled to protection from any form of retaliation following a report made in good faith, even if the report is later not proven. Any person who believes that they are being or have been subjected to retaliation in violation of the prohibitions stated here should report their concern to the Title IX Coordinator or the Office of Student Conduct and/or the Assistant Dean for Student Conduct (if the person allegedly engaging in retaliation is a student) or the Title IX Coordinator or the Office of Human Resources (if the person allegedly engaging in retaliation is an employee). Retaliation allegations will be addressed through general conduct procedures applicable to student and employee Respondents, as appropriate.

### **Coordination with Concurrent Legal Proceedings**

Students, faculty, or staff may report to law enforcement in connection with the same behavior that forms the basis of Prohibited Conduct under this Sexual Misconduct Policy. Where a Complainant or another person with knowledge of possible Prohibited Conduct has reported to law enforcement, Morehouse will fulfill its responsibility under Title IX to take prompt and

appropriate action to provide protection and resources to the Complainant and Respondent as appropriate under College policy or applicable law.

A report to law enforcement will not change the College's obligation to investigate the matter at an appropriate time. However, it may briefly delay the timing of the investigation if a law enforcement agency requests that the College delay its process for a reasonable amount of time to allow it to gather evidence of criminal conduct.

### **Advisor of Choice**

The College provides the Parties with the same opportunity to have a single Advisor of his/her choice present during any grievance proceeding, including the opportunity to be accompanied by such Advisor to any related meeting or proceeding. A Party's chosen Advisor may be the Party's legal counsel, but nothing under this Section shall be construed to create an obligation on the part of the College or the Title IX Coordinator to provide either Party with legal counsel.

### **Advisor of Choice in Title IX Sexual Harassment Matters**

In accordance with the May 2020 Title IX Regulations, the following special provisions apply to Advisors of Choice in the context of Title IX Sexual Harassment matters (but not to Non-Title IX Misconduct matters). In Title IX Sexual Harassment matters, an Advisor is a person chosen by a Party to accompany the Party to meetings related to the resolution process, to advise the Party on that process, and to conduct cross-examination on behalf of that Party at a Live Hearing. An Advisor may only participate in a Live Hearing's cross-examination of the opposing Party, of witnesses and objecting to the other Party's Advisor's questions. At the Live Hearing, the Panel Chair will permit each Party's Advisor to ask the other Party, and any witnesses, all relevant questions and follow-up questions, including those challenging credibility. During other parts of the Live Hearing, the Advisor may not speak on the part of the individual he or she is advising.

An Advisor is subject to the same confidentiality expectations applicable to Parties. Accommodations, including the scheduling and rescheduling of interviews or hearings, will not be made for any Advisors where doing so would unduly delay the process. The College expects that all participants, including Parties and Advisors, participate respectfully and non-abusively during a hearing. The Advisor may not interrupt or interfere with the proceedings, and, to the extent that they do, Morehouse retains the right to stop the process, and remove and replace the Advisor.

If a Party does not have an Advisor available to attend a Live Hearing with the Party, the College will provide an Advisor for the limited purpose of posing relevant questions on the Party's behalf, as referenced above and in the applicable Morehouse College Title IX Sexual Harassment procedures.

### **Advisor of Choice in Non-Title IX Misconduct Matters**

Advisors of choice may attend meetings and hearings in Non-Title IX Misconduct matters with their advisee and may consult with their advisee privately in a non-disruptive manner during

meetings and hearings, but they may not address investigators or decision-makers, question witnesses or the other Party, or otherwise speak or participate actively in meetings or hearings. The Advisor may not interrupt or interfere with the proceedings, and, to the extent that they do, Morehouse retains the right to stop the process, and remove the Advisor.

### **Conflict of Interest**

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

Any persons exercising authority under this Sexual Misconduct Policy who believe they may be unable to exercise that authority impartially in any case shall excuse themselves from the matter; they will be replaced with another person.

Any individual designated by the College as a Title IX Coordinator, investigator, decision-maker, or any person designated by the College to facilitate an informal resolution process, must not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

If the Complainant or Respondent believes a person exercising authority under this Sexual Misconduct Policy has a personal, professional, or financial involvement with the Complainant or Respondent that would prevent the person from using their authority impartially, they may make a prompt objection to the Title IX Coordinator.

If the Title IX Coordinator determines that the objection is reasonable, the challenged person will be replaced. Morehouse is a small community, and as such, knowledge of or acquaintance with the student(s), employee(s), and/or witness in a matter, awareness of a matter, participating as a consequence of one's official role in events surrounding a matter, and/or participation in the process before the formal disciplinary process, shall not automatically be grounds for disqualification. The decision of the Title IX Coordinator regarding a challenge is final.

### **Overview of the Procedures for Resolving Sexual Misconduct Complaints Involving Students, Employees, and Third Parties**

The Investigation and Resolution of Grievance Procedures for Title IX Sexual Harassment and Non-Title IX Misconduct matters can be found in the Sexual Misconduct Procedures document, which will continually be published on the College's intranet and external website.

## **J. Additional Matters**

### **Recordkeeping**

The College will maintain the following records of Title IX Sexual Harassment matters for a period of seven years:

- 1) Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
- 2) Any disciplinary sanctions imposed on the Respondent;
- 3) Any remedies provided to the Complainant designed to restore or preserve equal access to the College's Education Program or Activity;
- 4) Any appeal and the result therefrom;
- 5) Any Informal Resolution and the result therefrom;
- 6) All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. The College will make these training materials publicly available on College's website. (Note: If the College does not maintain a website, the College must make these materials available upon request for inspection by members of the public.); and
- 7) Any actions, including any supportive measures, taken in response to a report or Formal Complaint of sexual harassment, including:
  - a. The basis for all conclusions that the response was not deliberately indifferent;
  - b. Any measures designed to restore or preserve equal access to the College's Education Program or Activity; and
  - c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

The College will also maintain any and all records confidentially within the Maxient Software system or secure storage in accordance with state and federal laws.

The College will maintain records pertaining to Non-Title IX Sexual Misconduct matters as deemed appropriate by the Title IX Coordinator or designee, consistent with any applicable general Morehouse College document retention policies.

### **Duty of Honesty**

All Parties and witnesses are obligated to be completely honest during the entire process set forth in the Sexual Misconduct Policy. Any person who knowingly makes a false statement – either explicitly or by omission – in connection with any part of the process may be subject to separate College disciplinary action.

### **Duty Not to Interfere with Process**

Any person who knowingly interferes with actions taken by the College to implement the reporting, investigation, or resolution of matters under the Sexual Misconduct Policy may be subject to separate College disciplinary action.

### **Recording the Proceedings**

The Parties are not permitted to make video, audio, or other electronic, photographic, or digital recordings of any meetings or proceedings held under the Sexual Misconduct Policy. The Title IX Coordinator may make exceptions to this prohibition in limited circumstances if he or she concludes that a recording is warranted in his or her sole discretion.

The Title IX Office will create an audio or audiovisual recording, or transcript, of any Live Hearing, which will be made available to the Parties and their Advisors for inspection and review.

### **Follow-up with Complainant and Respondent**

The Title IX Coordinator will follow up within a reasonable time frame and at appropriate intervals with both the Complainant and Respondent to provide an update on the process, and notification of delays.

### **Amnesty for Students Reporting Misconduct**

The College encourages reporting under the Sexual and Interpersonal Misconduct Policy and seeks to remove barriers to reporting. The College generally will not hold a student in violation of the College's Community Standards on prohibited use of drugs or alcohol if such use is disclosed during the reporting of sexual misconduct or an investigation under the Policy.

Under limited circumstances, a person who reports conduct under the Policy may be held accountable for his or her misconduct if, in the College's discretion, it is determined that the behavior placed the health and safety of any person at risk, or if it created a danger to the College community. The College retains the right to require students to attend counseling or drug/alcohol-related courses even in circumstances in which a disciplinary proceeding will not be pursued under the Community Standards.



## **Responsible Office**

The Office of Title IX, Ethics & Compliance is the responsible office for updating and maintaining this Policy.

## **Revision of this Policy**

This Policy and the Procedures supersede any previous policy or policies addressing harassment, sexual misconduct, discrimination, and/or retaliation and will be reviewed and updated annually by the Title IX Coordinator. The College reserves the right to make changes to this document as necessary at any time and for any reason whatsoever in its sole and unilateral discretion, and once any such changes or modifications are published to the campus community, they shall be deemed to be in effect. Neither this Policy nor its accompanying Procedures shall be deemed to constitute a contract or give rise to any enforceable contractual obligation for any purpose whatsoever.

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

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

The College acknowledges the obligations and enforcement mechanisms imposed by the background state and federal laws that relate to the subject matter of this Policy, but the College does not undertake any additional legally enforceable obligations through its adoption of this Policy.

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## **Revision History**

Updates Approved by the Morehouse College Executive Leadership Team.  
Effective February 21, 2022.