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Policy Identification Number	46
Policy Title	Prohibited Discrimination, Harassment, and Sexual Misconduct
Classification	Medical University of South Carolina
Effective Date	September 9, 2019
Approval Authority	University Title IX Coordinator; Executive Vice President for Academic Affairs and Provost; and Executive Vice President for Finance and Operations
Responsible Entity	University Title IX Coordinator
Policy Owner	University Title IX Coordinator

I. Policy Statement

The Medical University of South Carolina (“MUSC” or the “University”) is committed to fostering an open and supportive community that promotes learning, discovery, and healing. This commitment includes maintaining an educational and working environment, as well as other benefits, programs, and activities, that are free from discrimination, harassment, and retaliation (collectively, “Prohibited Conduct”). To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to fairness and equity, MUSC has developed internal policies and procedures that will provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of their protected class or an allegation of sexual assault, intimate partner violence, stalking, or sexual exploitation. MUSC values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in what is often a difficult time for those involved.

II. Scope

When the responding party is a member of the MUSC community, the resolution process is applicable¹ regardless of the status of the reporting party, who may or may not be a member of the MUSC community. This community includes, but is not limited to, students (defined as any individual who is registered or enrolled for credit or non-credit bearing coursework), residents, postdoctoral fellows, student organizations, faculty, administrators, staff, guests, independent contractors, vendors, visitors, invitees, and campers. The procedures below may be applied to incidents, patterns, or climate, all of which may be addressed and investigated in accordance with this Policy.

A. Jurisdiction

This Policy applies to conduct that occurs on campus, on MUSC-owned or controlled property, at MUSC-sponsored events (including sponsored travel, research, or internship programs), and

¹ The resolution process set forth in this Policy governs the resolution of all reports of Prohibited Conduct regardless of when the event occurred. However, where the date of the Prohibited Conduct precedes the effective date of this Policy, the definitions of Prohibited Conduct in existence at the time of the alleged incident(s) will be used.

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online conduct through the use of MUSC-owned or provided technology. This Policy also applies to off-campus and online conduct when the University Chief Diversity Officer/Title IX Coordinator (“Title IX Coordinator”) determines that the conduct poses a substantial threat to MUSC’s mission or to the health or safety of the University community.

If the responding party is unknown or not a member of MUSC’s community, the Title IX Coordinator will assist the reporting party in identifying appropriate campus and local resources and support options. When criminal conduct is alleged, the Title IX Coordinator will assist the reporting party in contacting local law enforcement if the individual would like to file a police report. In addition, MUSC may take other actions as appropriate to protect the reporting party against a third party, such as barring the latter from MUSC property and events.

When the responding party is enrolled in or works at another institution, the Title IX Coordinator can assist the reporting party in liaising with the appropriate individual for that institution, as it may be possible to allege violations through that institution’s policy.

Similarly, the Title IX Coordinator may be able to advocate for a student or employee reporting party who experiences discrimination in a clinical rotation, externship, study abroad program, or other environment external to MUSC where the sexual harassment policies and procedures of the facilitating organization may give recourse to the reporting party.

B. Online Harassment and Misconduct

Any online postings or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-harassment, etc., occurring completely outside of MUSC’s control (e.g., not on MUSC networks, websites, or between University email accounts) will only be subject to this Policy when such online conduct can be shown to cause a substantial on-campus disruption. Otherwise, such communications are considered speech protected by the 1st Amendment. Remedies for such protected speech cannot legally be subjected to discipline. Off-campus discriminatory or harassing speech by employees, whether online or in person, may be regulated by MUSC only when such speech is made in an employee’s official or work-related capacity.

III. Approval Authority

The University Chief Diversity Officer and Title IX Coordinator, the Executive Vice President for Academic Affairs and Provost, and the Executive Vice President for Finance and Operations are the approval authorities for this Policy.

IV. Purpose Of This Policy

The purpose of this Policy is to prohibit all forms of discrimination pursuant to MUSC’s mission and in accordance with all applicable federal and state laws and regulations. Sometimes, discrimination involves exclusion from activities, such as admission to programs or employment advancement. Other times, discrimination takes the form of harassment or, in the case of sex-based discrimination, encompasses gender-based harassment, sexual violence, stalking, sexual

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exploitation, or intimate partner violence. This Policy serves to further MUSC’s commitment to a safe, inclusive, and non-discriminatory learning and working environment.

V. Who Should Be Knowledgeable About This Policy

All members of the MUSC community.

VI. Policy

Because of the length of this Policy, the substantive content begins on Page 5 of this document.

VII. Special Situations

Any questions relating to the contents of this Policy can be directed to the University Chief Diversity Officer/Title IX Coordinator.

VIII. Sanctions For Non-Compliance

Individuals who are found responsible for violating this Policy will face corrective action as determined by the Title IX Coordinator or the Hearing Panel in consultation with the appropriate disciplinary authority.

IX. Related Information

This Policy addresses MUSC’s response to reports of harassment, discrimination, and retaliation. Reports of misconduct that do not meet the definitions of Prohibited Conduct may be governed by other MUSC policies, including the **Standards of Professional Behavior Policy** and **Treatment of Students Policy**.

In addition, the conduct of students and employees are governed by the **Code of Conduct, Student Handbooks, Human Resource policies, Faculty Handbook, and the Graduate Medical Education Handbook**. This Policy supersedes any conflicting information contained in those policies with respect to the definitions and procedures relating to the Prohibited Conduct defined here. Where conduct may be a violation of both this Policy and other MUSC policies, MUSC may investigate any or all reports of misconduct in accordance with the procedures set forth in this Policy.

In implementing this Policy, records of all allegations, investigations, formal and informal resolutions, and hearings will be kept indefinitely by Title IX Coordinator in the Title IX database. MUSC will also retain all materials used to train Title IX Coordinators, investigators, and decision-makers.

X. Communication Plan

This Policy will be published in the Bulletin, on MUSC’s website, and will be included in new student and employee orientation materials (e.g., MyQuest modules, Handbooks, etc.). Senior

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administration will communicate the Policy to their teams and units using normal communication channels.

XI. Definitions

Please refer to the *Definitions of Prohibited Conduct* and the *Important Policy Terms and Concepts* Sections of the Policy.

XII. Review Cycle

This Policy will be reviewed on at least an annual basis.

XIII. Approval History

<i>Approval Authority</i>	<i>Action</i>	<i>Date</i>
University Chief Diversity Officer and Title IX Coordinator	Reviewed	8/28/2019
Executive Vice President for Academic Affairs and Provost		8/28/2019
Executive Vice President for Finance and Operations		8/28/2019

IX. Approval Signatures



Willette S. Burnham-Williams, PhD
University Chief Diversity Officer and Title IX Coordinator

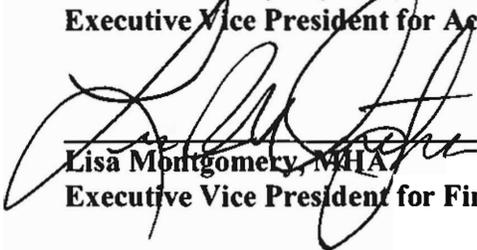
8/28/2019
Date



Lisa K. Saladin, PT, PhD, FAPTA

Executive Vice President for Academic Affairs and Provost

8/28/19
Date



Lisa Montgomery, MHA

Executive Vice President for Finance and Operations

8/28/19
Date

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Note 1: This Policy replaces the Human Resources Management Policy 46, which was formerly titled Anti-Harassment Policy.

Note 2: Use and adaptation of the *One Policy, One Process Model* with citation to ATIXA is permitted through a limited license to the Medical University of South Carolina. All other rights reserved. © 2019. ATIXA

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I. STATEMENT OF NON-DISCRIMINATION

The Medical University of South Carolina (“MUSC” or the “University”) complies with all federal and state civil rights laws and regulations prohibiting discrimination in public institutions of higher education. MUSC does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of age, color, disability, citizenship status, ethnicity, gender identity, gender expression, national origin (including ancestry), parenting status, pregnancy, race, religion, sex, sexual orientation, veteran or military status, or any other protected category under applicable local, state, and federal law. MUSC also prohibits retaliation against those who oppose discrimination or participate in any resolution process on campus or with an external human rights agency.

The Policy on Prohibited Discrimination, Harassment, and Sexual Misconduct (the “Policy”) covers nondiscrimination in both employment and education. Therefore, any member of the MUSC community who acts to deny, deprive, or limit the educational or employment access, benefit or opportunity of another member of the MUSC community, guest, or visitor based on their actual or perceived membership in a protected class is in violation the Policy. When brought to the attention of MUSC’s Title IX Coordinator, any such discrimination will be promptly and fairly addressed and remedied according to the resolution process described in the Policy.

II. TITLE IX COORDINATOR

The University Chief Diversity Officer serves as the Title IX Coordinator and oversees implementation of MUSC’s Affirmative Action Plan, disability compliance, and the Policy on Prohibited Discrimination, Harassment, and Sexual Misconduct. The Title IX Coordinator has the primary responsibility for coordinating MUSC’s efforts related to investigation, resolution, and implementation of corrective measures and monitoring to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this Policy. The Title IX Coordinator has multiple responsibilities including but not limited to:

- Oversight of the University’s response to reports of Prohibited Conduct, which may include coordinating a prompt, thorough, and equitable investigation; implementing interim measures; and/or facilitating an informal resolution.
- Leading MUSC’s education efforts relating to harassment and discrimination.
- Maintaining records of all reports, investigations, and resolutions to track and monitor patterns, trends and issues of concern.

Inquiries or concerns regarding this Policy may be made to the University Title IX Coordinator:

Willette S. Burnham-Williams, PhD
173 Ashley Avenue, MSC 502
Basic Sciences Building, Suite 104
Charleston, SC 29425
(843) 792-1072
titleix@musc.edu

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The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator acts to ensure that all MUSC representatives act with objectivity and impartiality and are assessed with respect to conflicts of interest. To raise a concern involving bias or conflict of interest by the Title IX Coordinator, contact the University President. Reports of misconduct or discrimination committed by any other administrator involved in the resolution process should be reported to the Title IX Coordinator.

The Title IX Coordinator may delegate responsibilities under this Policy to designated administrators or external professionals, who will have appropriate training and experience.

External inquiries can be made to the following federal agencies:

Office for Civil Rights
 United States Department of Education
 400 Maryland Avenue, SW
 Washington, D.C. 20202-1100
 (800) 421-3481
OCR@ed.gov
<http://www.ed.gov/ocr>

Equal Employment Opportunity Commission (EEOC)
info@eeoc.gov
<http://www.eeoc.gov/contact/>
 (800) 669-4000

III. DEFINITIONS OF PROHIBITED CONDUCT

This Policy prohibits the following forms of conduct, including attempts to commit the conduct: Discriminatory Harassment, Sexual Harassment, Non-Consensual Sexual Intercourse, Non-Consensual Sexual Contact, Intimate Partner Violence, Stalking, Sexual Exploitation, Retaliation, Complicity, and Failure to Follow a University Directive. For specific examples of the types of conduct that may rise to the level of Prohibited Conduct, please refer to the [Office of the Title IX Coordinator website](#).

Conduct that violates this Policy may also violate the laws of the local jurisdiction in which the incident occurred and subject a responding party to criminal prosecution and civil litigation. If the alleged Prohibited Conduct is a crime, a report should be made to MUSC’s Department of Public Safety or other appropriate law enforcement agency if the incident occurred off campus. For definitions of crimes, and for detailed information about MUSC’s obligations pursuant to the Clery Act, please see the Crime Reporting Policy.

A. Discriminatory Harassment

Discriminatory harassment is defined as unwelcome conduct by any member or group of the MUSC community on the basis of actual or perceived membership in a protected class.

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MUSC will act to remedy all forms of discriminatory harassment when reported, whether or not the harassment rises to the level of creating a hostile environment. A hostile environment is one that unreasonably interferes with, limits, or denies an individual's educational or employment access, benefits, or opportunities. This discriminatory effect results from objective offensive verbal, written, graphic, or physical conduct that is severe or pervasive.

MUSC reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature not based on a protected class. Addressing such conduct will not result in the imposition of discipline under this Policy, but may be addressed through respectful conversation, remedial actions, education, effective conflict resolution, and other informal resolution mechanisms. For assistance with conflict resolution and other informal resolutions, employees may contact the Director of Human Resources (faculty may also contact the Ombudsman) and students may contact the Dean for Student Affairs at their respective college.

B. Sexual Harassment

MUSC has adopted the following definition of Sexual Harassment in order to address the special environment of an academic community, which consists not only of employer and employees, but of students and trainees.

Sexual Harassment is:

- Unwelcome,
- sexual, sex-based, or gender-based,
- verbal, written, online, or physical conduct.

Anyone experiencing sexual harassment in any MUSC program is encouraged to report it immediately to the Title IX Coordinator or to the Deputy Title IX Coordinator. Remedies, education, and/or training may be provided in response.

Disciplinary Standard

Sexual harassment may be disciplined when it creates a hostile environment, takes the form of *quid pro quo* harassment, or is retaliatory.

A hostile environment is created when sexual harassment is:

- Severe, and/or
- persistent and/or
- pervasive **and**
- objectively offensive, such that it:
- unreasonably interferes with, denies, or limits the ability to participate in or benefit from MUSC's education or employment program, activity, or benefit.

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Unwelcomeness and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances.

Quid Pro Quo Sexual Harassment

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by a person having power or authority over another constitutes *quid pro quo* sexual harassment when submission to such sexual conduct is made either explicitly or implicitly a term or condition of an individual's work or educational development or performance, or evaluation thereof.

C. Non-Consensual Sexual Intercourse

Non-Consensual Sexual Intercourse is defined as any sexual intercourse that is without consent.

Sexual intercourse includes:

- vaginal or anal penetration by any body part or foreign object, or
- any oral-genital contact,
- no matter how slight the penetration or contact.

D. Non-Consensual Sexual Contact

Non-Consensual Sexual Contact is any intentional sexual touching that is without consent.

Sexual touching includes:

- intentional contact (including direct contact and over clothing) with the breasts, groin, genitals, or mouth, or
- touching another with any of these body parts, or
- making another touch you or themselves with any of these body parts; or
- any other intentional bodily contact in a sexual manner.

1. Consent

Consent is knowing, voluntary, and clear permission by words or actions 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.

Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

Consent can also be withdrawn once given. If an individual clearly communicates a withdrawal of consent, that sexual activity should cease within a reasonable time.

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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 MUSC 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.

2. Incapacitation

Incapacitation occurs when someone cannot make a rational, reasonable decision because they lack the capacity to give informed consent. A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including by alcohol or other drugs. A person violates this Policy if they engage in sexual activity with someone they know to be, or should know to be, physically or mentally incapacitated. Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

3. Intoxication of the Responding Party

It is not an excuse that the responding party was intoxicated and, therefore, did not realize the incapacity of the reporting party. The question of whether the responding party should have known of the incapacity is an objective question about what a reasonable person exercising sober judgment would have known in the same or similar circumstances.

4. Force

Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced.

5. Coercion

Coercion is unreasonable pressure for sexual activity. When someone makes it clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

E. Intimate Partner Violence

Intimate Partner Violence (commonly referred to as dating, domestic, or relationship violence) is defined as verbal, physical, or emotional violence or abuse between those who are involved in, or have been involved in, an intimate interaction or relationship.

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Violence is defined as physical harm or threat of physical harm, and conduct, whether physical, verbal, or electronic, which threatens the mental health, physical health or safety of another.

Violence may involve a one-time incident or a pattern of conduct in which an individual uses physical violence, coercion, threats, intimidation, isolation, or other forms of abuse to maintain power or control over their current or former intimate partner.

F. Stalking

Stalking is defined as repetitive and menacing pursuit, following, harassing, and/or interfering with the peace or safety of another. Stalking also includes cyber-stalking through digital means, including but not limited to email, social networks, blogs, cell phones, or text messages.

G. Sexual Exploitation

Sexual Exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being exploited, and that conduct does not otherwise constitute sexual misconduct under this Policy.

Examples of sexual exploitation include, but are not limited to:

- Sexual voyeurism.
- Taking pictures, video, or audio recording of another in a sexual act when there is a reasonable expectation of privacy during the activity without the consent of all involved in the activity.
- Engaging in sexual activity with another person while knowingly infected with a sexually-transmitted infection (STI), without informing the other person.
- Administering alcohol or drugs to another person without their knowledge or consent.
- Exposing one’s genitals in non-consensual circumstances, including unwelcome sexting.

H. Retaliation

This Policy prohibits taking adverse action against an individual involved in a protected activity. Protected activity includes making a good faith report under this Policy, participating in proceedings under this Policy, filing an external complaint, and opposing an action reasonably believed to constitute a violation of this Policy.

Retaliation can take many forms, including but not limited to, violence, threats, and intimidation that would discourage a reasonable person from engaging in a protected activity. Actions in response to a good faith report under this Policy are considered retaliatory if they have a materially adverse effect on the learning or working environment of an individual or if they hinder or prevent the individual from effectively carrying out their MUSC responsibilities.

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

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I. Complicity

Complicity is any deliberate act or failure to act that knowingly or intentionally aids, attempts, assists, promotes, encourages, conceals, or facilitates the commission of a specific act of Prohibited Conduct by another person.

J. Failure To Follow MUSC Directive

Any deliberate act in opposition or violation of a MUSC directive issued pursuant to this Policy, including but not limited to a no-contact order or a no-trespass directive, may constitute failure to follow a MUSC directive.

IV. IMPORTANT POLICY TERMS AND CONCEPTS

A. Reporting Party

Reporting Party means the student, employee, or third party who presents as the victim of any Prohibited Conduct under this Policy, regardless of whether that person makes a report or seeks action under this Policy.

B. Responding Party

Responding Party means the student, employee, or third party who is accused of violating this Policy.

C. Report/Allegation

The term “report” and “allegation” are used interchangeably and denote information provided to the University regarding conduct that may have violated this Policy.

D. Informal Resolution

Informal resolution occurs when the parties agree to resolve the matter without a formal investigation or the responding party is willing to accept responsibility for a violation.

E. Formal Resolution

Formal resolutions means an investigation and a hearing before neutral, impartial decision-makers, subject to appeal and final determination.

F. Notice of Allegations

A document signed by a reporting party or by the Title IX Coordinator alleging that the responding party engaged in Prohibited Conduct. A notice will be issued to the responding party any time MUSC initiates a formal resolution.

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G. Supportive Measures

Non-disciplinary individualized services offered as appropriate to the parties regardless of whether a Notice of Allegations has been issued.

V. REPORTING OPTIONS AND OBLIGATIONS

Individuals have the right to report potential violations of this Policy to MUSC and, if the violations are also violations of law, to law enforcement. MUSC's policies and procedures operate independently of law enforcement investigations, although MUSC may coordinate information with the Department of Public Safety or other law enforcement agencies when required by law. Individuals who make a good faith report of Prohibited Conduct to MUSC will be provided with written information about available support and resources and will be protected from retaliation. University officials will assist individuals in notifying law enforcement authorities if the individual chooses. An individual does not need to decide whether they wish to request any particular course of action when they report an incident to MUSC.

A. Reporting to the Title IX Coordinator

Individuals can report violations of this Policy to the MUSC in the following ways:

In person: 173 Ashley Avenue, Basic Science Building, Room 104, Charleston, SC 29425
By phone: 843-792-1072
By email: titleix@musc.edu
Online: https://cm.maxient.com/reportingform.php?MedicalUnivofSC&layout_id=6

B. Reporting to Law Enforcement

Victims of a crime have a right to report (or decline to report) the conduct to law enforcement. If on campus, contact the Department of Public Safety for assistance in filing a criminal complaint and preserving physical evidence.

In person: 101 Doughty Street, Charleston, SC 29425,
By phone: (843) 792-4196
By email: Public-Safety@musc.edu
Online: <https://web.musc.edu/about/safety/public-safety>

If off campus, call 911 to reach local law enforcement.

All individuals are urged to report any conduct that may constitute a crime to law enforcement immediately. Questions about whether the reported Prohibited Conduct constitutes a crime should be addressed to law enforcement. Police have a unique legal authority to seek and execute search warrants, collect forensic evidence, and make an arrest where there is probable cause to believe that a crime has been committed.

Proceedings under this Policy may be carried out prior to, simultaneously with, or following civil

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or criminal proceedings off campus. Neither a decision by law enforcement regarding prosecution nor the outcome of any criminal proceeding will be considered determinative of whether a violation of this Policy has occurred.

C. Anonymous Reporting

Individuals can make anonymous reports using the following online form: <https://tinyurl.com/musc-titleix-report>; through Public Safety’s Silent Watch online form: <https://education.musc.edu/leadership/diversity/title-ix/reporting-prohibited-conduct/silent-watch>; or through the Report Tips function on the LiveSafe App. Providing information will help MUSC maintain accurate records regarding the number of incidents; determine if there is a pattern of conduct with regard to a particular location or responding party; and alert the campus community to potential dangers. Although individuals are permitted to make anonymous reports, MUSC’s ability to respond meaningfully may be limited depending on the amount of information provided. (See Section VI.C for requesting anonymity).

D. Responsible Employees

All MUSC employees are expected to report actual or suspected discrimination or harassment to appropriate officials immediately, though there are some limited exceptions. Certain designated employees may maintain confidentiality. Those employees are known as Confidential Resources, described in detail in the next section. With the exception of MUSC employees designated as Confidential Resources, all other MUSC employees are considered Responsible Employees.

All Responsible Employees are **expected to immediately report immediately** any information they know about suspected Prohibited Conduct to the Office of the Title IX Coordinator. Student workers who have supervisory responsibility or responsibility for the welfare of other students are also considered Responsible Employees when they learn of potential violations of this Policy in the scope of their employment.²

Responsible Employees are expected to report all known information, including the identities of the parties, the date, time and location, and any details about the reported incident. Responsible Employees play an integral role in fostering a culture of accountability and helping MUSC to prevent and respond to Prohibited Conduct in a manner consistent with MUSC’s mission.

Responsible Employees must maintain the privacy³ of all individuals involved to the greatest extent possible and may provide support and assistance, but they cannot promise confidentiality

² In addition to the above reporting responsibilities, all MUSC employees, including Confidential Resources have an obligation to report suspected child abuse and neglect under the Abuse Identification Pediatrics Policy, and all health professionals have an obligation to report suspected abuse of adult patients by a caretaker under MUSC’s Abuse Identification Adults Policy and Vulnerable Patient Policy.

³ *Privacy* means that information related to an allegation will be shared with a limited number of MUSC employees who “need to know” in order to assist in the assessment, investigation, and resolution of the report. All employees who are involved MUSC’s response to violations of this Policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”), as outlined in MUSC’s FERPA policy. The privacy of employee records will be protected in accordance with Human Resource

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or withhold information about Prohibited Conduct from the Title IX Coordinator. Failure by a Responsible Employee to report suspected Prohibited Conduct in a timely manner may subject them to appropriate discipline, including removal from a position or termination of employment.

Responsible Employees are not required to report information disclosed at public awareness events (e.g., “Take Back the Night,” candlelight vigils, protests, “survivor speak-outs,” or other public forums in which students may disclose prohibited conduct) or during an individual’s participation as a subject in an Institutional Review Board-approved human subjects research protocol.

E. Confidential Reporting

MUSC has designated individuals who have the ability to have privileged communications as Confidential Resources. When information is shared with a Confidential Resource, the Confidential Resource cannot disclose the information to any third party without the individual’s consent, except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when there is a concern that the individual will likely cause serious physical harm to self or others or the information concerns conduct involving suspected abuse or neglect of a minor. Confidential Resources **will not disclose information** about Prohibited Conduct to any third party, including the Title IX Coordinator, without the individual’s permission or as set forth above.

Confidential Resources are encouraged to share information with victims regarding their options to report. When individuals who otherwise may be Confidential Resources receive information outside of the provision of professional services, the Confidential Resource is required to share that information with the Title IX Coordinator.⁴

The following Confidential Resources⁵ are available to the MUSC community:

- On-campus professional counselors and conflict resolution staff, including:
 - [Employee Assistance Program \(EAP\)](#)
 - 51 Bee Street
 - (843) 792-2848
 - [Counseling and Psychological Services \(CAPS\)](#)
 - (843) 792-4930
 - caps@musc.edu
 - [National Crime Victims Research and Treatment Center](#)
 - 67 President Street
 - 2nd Floor Institute of Psychiatry Building South
 - (843) 792-8209
 - [Faculty Ombuds](#)
 - 843-792-2618

policies. *Confidentiality* exists in the context of laws that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy.

⁴ Please refer to the Crime Reporting Policy for information about Campus Security Authorities and their reporting obligations and exceptions.

⁵ For a complete list of on-campus and off-campus resources, please refer to the [Title IX website](#).

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- univ-ombudsman@musc.edu
- [Hospital Chaplains](#)
 - On campus chaplains working within the scope of their ordination or licensure
- On-campus health service providers and staff, including:
 - [Student Health Services](#)
 - 30-A Bee Street
 - (843) 792-3664
 - [Sexual Assault Nurse Examiners \(SANE\)](#)
 - Located in the Adult Emergency Department at 96 Jonathan Lucas Street
 - (843) 792-3826
- Off campus (non-employees), including:
 - Licensed professional counselors and other medical providers
 - Local rape crisis counselors
 - Domestic violence resources
 - Local or state assistance agencies
 - Clergy/Chaplains
 - Attorneys

F. Time Frame for Reporting

Reports under this Policy may be made at any time without regard to how much time has elapsed since the incident(s) in question. However, individuals are encouraged to report any violation of this Policy as soon as possible in order to maximize MUSC’s ability to respond promptly and effectively.

If the responding party is no longer subject to MUSC’s jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited. In such circumstances, MUSC may still provide support to the reporting party and take appropriate steps to end the Prohibited Conduct, prevent its recurrence, and address its effects. Acting on allegations significantly impacted by the passage of time is at the discretion of the Title IX Coordinator.

G. Obligation to Cooperate and Provide Truthful Information

All members of the MUSC community are expected to cooperate and participate in inquiries, investigations, and resolutions of reports of Prohibited Conduct under this Policy. When involved in a proceeding under this Policy, all members of the MUSC community are expected to provide truthful information. Deliberately providing false or misleading information is prohibited and subject to disciplinary sanctions.

H. Preservation of Evidence

Preservation of information related to reports of Prohibited Conduct is essential for investigations under this Policy as well as for law enforcement investigations.⁶ Therefore, any person involved

⁶ For more information about how to preserve evidence, please refer to the Crime Reporting Policy.

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in an investigation, whether as the reporting party, responding party, or witness, is encouraged to preserve all information and tangible material relating to the alleged Prohibited Conduct. Examples of evidence include electronic communications (e.g., email and text messages), photographs, clothing, and medical information. In the case of medical information, prompt examinations can be crucial to the collection of forensic or other medical evidence. Individuals who believe they have experienced sexual assault or other forms of prohibited conduct are strongly encouraged to seek immediate medical attention.

VI. INITIAL ASSESSMENT, ANONYMITY, AND INTERIM MEASURES

A. Overview

MUSC will act on any report of a violation of the Policy on Prohibited Discrimination, Harassment, and Sexual Misconduct that is received by the Title IX Coordinator. The procedures below apply to all allegations of harassment or discrimination on the basis of protected class status involving students and employees. These procedures, like the Policy, are global in scope. While they are informed by and comply with various laws (including Title VII and Title IX), the procedures stand alone as the University’s resolution mechanism for the conduct covered by this Policy, whether state or federal law applies or not. Law sets the floor for these procedures, but MUSC has determined the resolution mechanisms that are best suited to its community.

If at any point during the resolution process, the evidence indicates that an incident does not rise to the level of discrimination or harassment but could be in violation of other MUSC policies, the Title IX Coordinator may refer the matter to the appropriate office (e.g., Dean’s Office or Human Resources).

B. Initial Assessment Upon Receipt of a Report of Prohibited Conduct

Upon receipt of a report of Prohibited Conduct, the Title IX Coordinator⁷ will conduct an initial assessment of the incident. The Title IX Coordinator will aim to complete the initial assessment within ten business days. However, there may be circumstances where the initial assessment takes longer based on the availability of the reporting party or other necessary information.

The initial assessment will determine whether the alleged conduct would present a potential violation of the Policy and whether further action is warranted. The first step of the initial assessment will usually be a meeting between the reporting party and the Title IX Coordinator or their designee to gather facts that will enable the Title IX Coordinator to:

- Assess the nature and circumstances of the allegation;
- Address the reporting party’s immediate concerns about the physical safety and well-being;
- Inform the reporting party that the Title IX Coordinator will maintain the reporting party’s privacy to the greatest extent possible and disclose information only as necessary;

⁷ If circumstances require, the President or Title IX Coordinator may designate another person to oversee the process should an allegation be made about the Coordinator or the Coordinator is otherwise unavailable or unable to fulfill their duties.

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- Notify the reporting party of the availability of medical treatment to address any physical or mental health concerns and to preserve evidence (including a sexual assault forensic investigation);
- Provide the reporting party with information about: (1) on and off-campus resources; (2) available interim measures; (3) the University’s procedural options (including formal and informal resolution); and (4) all the rights afforded to the parties pursuant to this Policy;
- Discuss the reporting party’s expressed preference for manner of resolution and any barriers to proceeding;
- Explain that the University prohibits retaliation and will take appropriate action in response to any act of retaliation;
- Explain the role of an advisor;
- Conduct an assessment for potential pattern evidence or other similar conduct;
- Communicate with appropriate University officials to determine whether the report triggers any Clery Act obligations, including the entry of the report in the daily crime log and issuance of a timely warning;
- If the conduct is criminal in nature, (1) notify the reporting party of their right to contact law enforcement or decline to contact law enforcement, be assisted by University officials in contacting law enforcement, and to seek a protective order; (2) inform the responding party that the criminal justice system uses different standards of proof and evidence than this Policy and that any questions about whether the reported incident constitutes a criminal violation should be addressed by law enforcement.

If the Title IX Coordinator determines that the alleged incident may violate this Policy, MUSC will initiate one of three responses: remedial response; informal resolution; or formal resolution. Remedial response is used when the responding party is unknown or the complaining does not want to proceed formally, and usually entails some type of supportive measure to the reporting party. Informal resolution is typically used for less serious offenses and only when the reporting and responding parties agree to resolve the report informally or the responding party is willing to accept responsibility for a violation. Formal resolution includes an investigation and an opportunity for a hearing before neutral, impartial decision-makers.⁸

C. When a Reporting Party Does Not Wish to Proceed or Wishes to Remain Anonymous

The reporting party may request that their name or other personally-identifiable information not be shared with the responding party, that no formal proceeding occur, or that no further action be taken. MUSC will attempt to honor the reporting party’s request, while also protecting the health and safety of the reporting party and the MUSC community. Upon receipt of a request of anonymity, before taking any further steps, the Title IX Coordinator will discuss any concerns about retaliation and answer any questions about procedural options and potential outcomes.

⁸ The internal resolution procedures set forth in this Policy will be conducted by individuals who receive annual training on (1) the definitions of discrimination, harassment, and retaliation; (2) issues related to sexual assault, intimate partner violence, sexual exploitation, and stalking; (3) and how to conduct an investigation and hearing that protects the safety of parties, ensures due process protections for all parties, and promotes accountability.

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MUSC reserves the right to initiate formal resolution proceedings without the participation of the reporting party when deemed necessary by the Title IX Coordinator. The Title IX Coordinator will consider the totality of known circumstances, including the reporting party’s concerns, the safety of the campus community, fairness to all individuals involved, and MUSC’s obligations under Title IX. In reaching a determination on whether the request can be honored, the Title IX Coordinator will determine if the allegations involve (1) violence, (2) threat, (3) pattern, (4) predation, (5) minors, and/or (6) the use of a weapon. In any situation in which these elements are **not** present, the Title IX Coordinator may respect the reporting party’s request not to pursue the matter through the formal resolution process and will investigate only informally so far as necessary to determine appropriate remedies.

Where the Title IX Coordinator determines that a reporting party’s request for anonymity can be honored, the Title IX Coordinator can still offer other remedies to the reporting party, such as supportive measures for the responding party and targeted training and prevention programs. Where the Title IX Coordinator determines that MUSC must initiate formal resolution proceedings despite the reporting party’s request against it, the Title IX Coordinator will notify the reporting party that MUSC intends to initiate a formal resolution. The reporting party may have as much or as little involvement in the process as they wish and retains all the rights of a reporting party irrespective of their level of participation.

D. Interim Actions and Supportive Measures

MUSC will offer and implement supportive or protective measures to both parties upon notice of alleged harassment, discrimination, and/or retaliation. These interim measures are intended to preserve the parties’ access to MUSC’s educational and employment opportunities; protect the safety of all parties and the broader MUSC community; address the short-term effects of the harassment, discrimination, and/or retaliation; and deter future violations of this Policy. The actions may include, but are not limited to:

- Referral to counseling, medical, and other health services
- Visa and immigration assistance
- Referral to legal assistance and advocates
- Student financial aid counseling
- Education to the community or community subgroup
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation accommodations
- Implementing contact limitations (no-contact orders) between the parties
- Academic support such as adjustments to academic deadlines, courses, schedules, etc.
- Guidance in obtaining a sexual assault forensic examination
- Assistance navigating off-campus housing issues
- Assistance obtaining a protective or restraining order⁹

⁹ For more information about obtaining an order of protection or a restraining order, please refer to the Crime Reporting Policy,

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MUSC will maintain as confidential the supportive or protective measures, provided that confidentiality does not impair MUSC’s ability to provide the supportive or protective measures.

MUSC may issue an interim suspension of a student or student organization or place an employee on paid or unpaid administrative leave, pending the completion of the investigation and resolution procedures when, in the judgment of the Title IX Coordinator, the safety or wellbeing of any member of the MUSC community may be jeopardized by the on-campus presence or on-going activity of the responding party.

MUSC may only remove a student from their education program or activity if the Title IX Coordinator determines, after conducting an individualized safety and risk analysis, that an immediate threat to the health or safety of the MUSC community exists. In such circumstances, the responding party shall be provided with written notice and an opportunity to challenge the decision immediately following the removal.

MUSC will implement the least restrictive measures possible when determining appropriate interim actions to ensure continued safety of all involved parties and the MUSC community, as well as to ensure a minimal impact on the parties. In all cases in which an interim action is imposed, the responding party will be given an opportunity to meet with the Title IX Coordinator to offer a reason for why the action should not be implemented or should be modified. This meeting is not a hearing on the merits of the allegation(s). It is an administrative process intended solely to determine whether the interim action is appropriate. The Title IX Coordinator has sole discretion to implement or stay an interim action and to determine its conditions and duration.

E. Notice of University Actions

Whenever the Title IX Coordinator decides to take any action that impacts any member of the MUSC community, including initiating a formal resolution, it will promptly inform the involved individual(s) in writing. The written notice will include all the information relevant to that action, as well as the parties’ rights and options under this Policy, including all the interim actions and supportive measures available to the parties.

VII. INFORMAL RESOLUTION

A. Overview

Informal resolution is a voluntary administrative process that does not involve a full investigation or adjudication. Informal resolution is used when (1) the parties agree to resolve the matter through conflict resolution (e.g., mediation, restorative actions, etc.); (2) when the responding party accepts responsibility for violating this Policy; and/or (3) when the Title IX Coordinator can resolve the matter informally by providing remedies to resolve the situation.

Informal resolution may be initiated by either party by submitting a request to the Title IX Coordinator. The Title IX Coordinator will assess the severity of the alleged Prohibited Conduct and the potential risk of a hostile environment for others in the community to determine whether an informal resolution is appropriate. Upon determining that the matter is appropriate for informal

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resolution and obtaining written confirmation that both parties wish to resolve the matter through informal resolution, the Title IX Coordinator will attempt to aid the parties in reaching a mutually acceptable resolution.

Prior to implementing the informal resolution, the Title IX Coordinator will provide the parties with written notice of the reported misconduct and any corrective actions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the University.

A matter will be deemed satisfactorily resolved when both parties expressly agree to an outcome that is also acceptable to the Title IX Coordinator. If an agreement is not reached or the Title IX Coordinator determines that further action is necessary, the matter will be referred for formal resolution. Either party can request to end the informal resolution at any time. If formal resolution proceedings have begun, the parties may request an informal resolution at any time prior to a hearing.

When the allegations, if true, might constitute criminal conduct, the party against whom they are brought is advised to seek legal counsel before making any written or oral statements. Those facing allegations may wish to obtain legal advice about how this process could affect any criminal case in which they are or may become involved.

Informal resolution can take many forms but may include implementing interim measures; conducting targeted or broad-based educational programming or training for relevant individuals or groups; providing increased monitoring, supervision, or security at locations or activities where the Prohibited Conduct occurred; and any other remedy that can be tailored to the involved individuals to achieve the goals of this Policy. Informal resolution may also include restorative principles that are designed to allow the responding party to accept responsibility for the misconduct and acknowledge harm to the reporting party and/or the MUSC community.

The Title IX Coordinator will maintain records of the informal resolution, including all the meetings, communications, documents, and any other relevant actions, at the Department of Diversity, Equity, and Inclusion.

B. Conflict Resolution

Conflict Resolution is an informal process, such as mediation or restorative practices, by which a mutually-agreed upon resolution of an allegation is reached. It may be used for less serious yet inappropriate conduct and is encouraged as an alternative to the formal resolution process to resolve conflicts. All the parties must consent to the use of conflict resolution.

Conflict resolution is not an appropriate option for cases involving allegations of sexual assault, intimate partner violence, or other serious violation of the Policy.

The Title IX Coordinator determines if conflict resolution is appropriate based on the willingness of the parties, the nature of the conduct at issue, and the amenableness of the conduct to be resolved through conflict resolution. MUSC will not compel parties to engage in any particular form of conflict resolution. In a conflict resolution meeting, a trained administrator or third-party will

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facilitate a dialogue with the parties to achieve an effective resolution. Sanctions are not possible as a result of a conflict resolution process, though the parties may agree to appropriate remedies. The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the accord may result in appropriate disciplinary actions.

C. Responding Party Admits Responsibility For Alleged Violations

The responding party may admit responsibility for all or part of the alleged Prohibited Conduct at any point during the resolution process. If the responding party admits responsibility for all alleged misconduct, the Title IX Coordinator will render the determination that the responding party is in violation of the Policy and, in consultation with the appropriate Disciplinary Authority, will determine appropriate corrective action(s). The corrective action(s) will be promptly implemented in order to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the complainant and the community. If the responding party only admits to part of the alleged Policy violations, then the Title IX Coordinator will find the responding party in violation for the admitted violations, and the contested allegations will be resolved through the formal resolution.

VIII. FORMAL RESOLUTION

Formal resolution can be pursued for any conduct for which the responding party has not accepted responsibility that constitutes Prohibited Conduct under this Policy.

A. Notice of the Allegations

Whenever the reporting party or the Title IX Coordinator elects to proceed with a formal resolution, the responding party will be provided with written notification of the investigation. The written notification will include a summary of the allegations including: the identity of the parties involved (if known); the precise misconduct being alleged; the date and location of the alleged incident(s); the specific section of the Policy implicated; a description of the applicable procedures; and a statement of the potential corrective actions that may result.

The written notification will also state that MUSC presumes the responding party is not responsible for the reported misconduct unless and until the evidence supports a different determination; determinations of responsibility are made at the conclusion of the resolution process; both parties may request to inspect and review all the evidence obtained; and this Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process. Updates to this notice may be made as the investigation progresses and more information becomes available.

The written notice may be delivered by one of the following methods: in person, mailed to the local or permanent addresses of the parties, or emailed to the parties' MUSC-issued email account. Once mailed, emailed, or received in-person, MUSC will presume that notice has been delivered.

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B. Resolution Timeline, Delays, and Interactions with Law Enforcement

MUSC will make a good faith effort to complete the resolution process as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation. MUSC may undertake a short delay in its investigation if circumstances require it. Such circumstances include concurrent law enforcement activity, the need for language assistance, the absence of parties and/or witnesses, and/or accommodation for disabilities or health conditions. The Title IX Coordinator will communicate in writing the anticipated duration of the delay and reason to the parties. MUSC will promptly resume the investigation and resolution process as soon as feasible. MUSC's actions are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

C. Ensuring Impartiality

Any individual materially involved in the administration of the resolution process (including the Title IX Coordinator and investigator(s)) may not have a conflict of interest or bias for either the reporting party or responding party. The resolution process involves an objective evaluation of all relevant evidence obtained, including both evidence that supports the position that the responding party engaged in the Prohibited Conduct and evidence that exculpates the reporting party. Credibility determinations may not be based on an individual's status as a reporting party, responding party, or witness.

D. Investigators

Once the decision is made to commence a formal investigation, the Title IX Coordinator will designate trained investigators (typically a team of two), usually within two business days of determining that an investigation should proceed. The Title IX Coordinator will vet the assigned investigators to ensure impartiality. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another investigator will be assigned and the impact of the bias or conflict, if any, will be remedied.

E. Investigative process

Investigations involve interviewing all relevant parties and witnesses, obtaining available, relevant evidence, and identifying sources of expert information, as necessary. The investigators will complete the investigation promptly and provide regular status updates to the parties throughout the investigation. Throughout the investigative process, all parties will have the opportunity to suggest witnesses and questions, to provide evidence, and to fully review and respond to all evidence on the record. The investigators typically take the following steps:

1. Notice of Allegations

- Meet with the reporting party to finalize their interview/statement, if necessary.
- Prepare the Notice of Allegations (NOA).

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- If material alterations to allegations arise, communicate this promptly to the parties.

2. Conduct Interviews and Gather Evidence

- Interview the parties separately.
- Interview all available relevant witnesses and conduct follow-up interviews as necessary.
- Provide the parties and witnesses an opportunity to review and verify the investigator's summary notes from their respective interviews.
- Notify the parties of any meeting or interview involving the other party, in advance when possible.
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting.
- Allow each party the opportunity to suggest witnesses and questions they wish the investigators to ask of the other party and witnesses.
- Prior to the conclusion of the investigation, provide the parties with a list of witnesses whose information will be used to render a finding.

3. Prepare an Investigation Report

- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. The report will include a credibility assessment of all the parties and witnesses and provide a recommendation based on all of the relevant information obtained.
- Investigators will use the preponderance of the evidence standard to recommend whether the evidence supports a finding that this Policy has been violated. They will also provide a detailed rationale for their recommendations.
- Prior to the conclusion of the investigation, provide the parties a copy of the draft investigation report, including all analysis, credibility assessments, and recommendations.
- Provide the parties with an equal opportunity to inspect and review the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the investigators did not rely in reaching a responsibility determination, so that each party may meaningfully respond to the evidence prior to the conclusion of the investigation.
- Provide each party with a full and fair opportunity (no fewer than 10 days) to respond to the investigation report in writing.
- Share the parties' submitted responses to the investigation report.
- Incorporate relevant elements of the parties' written responses into the final investigation report, make any changes needed, and finalize the report. The final report is then shared with all parties.

4. Review of Findings by the Parties

- The responding party, if found in violation, is given an opportunity to accept the findings of the investigation and waive a hearing.

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- If the responding party accepts responsibility for all alleged misconduct and waives a hearing, the investigators will submit the final investigation report, complete with all relevant evidence, the parties' submitted responses, and any subsequent material, documentation, communication, etc., to the Title IX Coordinator. The Title IX Coordinator will review all of the material, render a determination of responsibility, and determine appropriate sanctions in coordination with other relevant administrators, if applicable.
- If either party rejects the recommended findings, the investigator(s) will refer any contested allegations for a hearing. The Title IX Coordinator will provide the Hearing Panel with a copy of the final investigation report, complete with all relevant evidence, the parties' submitted responses, and any relevant subsequent materials, documentation, communications, etc. Any information related to credibility assessments, policy analysis, recommended findings, or responses to recommended findings by the investigator(s) will be fully redacted by the Title IX Coordinator before the report is shared with the Hearing Panel. Any such details are inadmissible in the hearing and/or appeal stages of the process.

F. Role and Participation of Witnesses

Witnesses who are students or employees of the University are expected to cooperate with and participate in the formal resolution process. Failure of a witness to cooperate with or participate in the formal resolution process may constitute a violation of this Policy and may warrant discipline.

While in-person interviews are ideal, circumstances (e.g., study abroad or summer break) may require individuals to be interviewed remotely. Video conferencing technologies may be used for interviews if investigators determine that timeliness or efficiency dictate a need for remote interviewing. Witnesses may also provide written statements in lieu of interviews, if deemed appropriate by the investigators.

F. Advisor of Choice

The parties may have an advisor of their choice present with them for all meetings and interviews within the resolution process. The parties may select whomever they wish to serve as their advisor, including an attorney. The parties may choose advisors from inside or outside the MUSC community. Advisors should help their advisees prepare for each meeting and are expected to advise ethically, with integrity, and good faith.

MUSC cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not, MUSC is not obligated to provide an attorney. MUSC will, however, provide a party with an advisor selected by the Title IX Coordinator if a hearing takes place and the party has not previously been accompanied by an advisor. An MUSC-appointed advisor is a process advisor who is trained on the institutional procedures. The advisor provided by MUSC is not able to provide the same kinds of advice that an advocate or attorney is trained to provide, but will act in the best interests of their advisees.

All advisors are subject to the same rules. Advisors may not address campus officials in a meeting or interview unless invited to. The advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the party.

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Advisors are expected to refrain from interference with the investigation and resolution. Any advisor who steps out of their role will be warned once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting. When an advisor is removed from a meeting, that meeting will continue without the advisor present. Subsequently, the Title IX Coordinator will determine whether the advisor may be reinstated or replaced by a different advisor.

MUSC will not typically change scheduled meetings or unreasonably delay meetings or proceedings based on an advisor's unavailability. MUSC will, however, make reasonable provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

An advisor may be asked to meet with a MUSC administrator in advance of any proceedings to understand the expectations of the role, privacy considerations, and appropriate decorum. Any communications with an advisor may only occur after appropriate authorization for release of information is received by the Title IX Coordinator.

The parties are expected to inform the investigator(s) of the identity of their advisor prior to their first meeting with investigator(s). The parties are expected to provide timely notice to investigators if they change advisors at any time.

G. Recording of Interviews

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of audio and/or video recording.

H. Evidentiary Considerations in the Investigation

Unless the Title IX Coordinator determines it is appropriate, the investigators will not consider: (1) incidents not directly related to the alleged violation, unless they evidence a pattern, (2) the sexual history of the parties (though there may be a limited exception made in regard to the sexual history between the parties or when evidence regarding the reporting party's sexual history is offered to prove that someone other than the responding party engaged in the reported misconduct), or (3) the character of the parties.

I. Referral for Hearing

If the contested allegations are not resolved through informal resolution or the parties do not accept the investigator's findings, the Title IX Coordinator will refer the matter for a hearing within ten days of the conclusion of the investigation, barring unusual circumstances.

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The Title IX Coordinator will refer the investigation to the Hearing Panel Chair. The person will appoint three members from a pool of trained individuals to serve on the Hearing Panel. The Hearing Panel members will not have had previous involvement with the allegation.

Those who have served as investigators will be witnesses in the hearing of the allegation and may not serve as Hearing Panel members. The Title IX Coordinator may not serve as a voting Hearing Panel member in that matter. The hearing will convene at a time determined by the Chair.

J. Notice of Hearing

Ten days prior to the hearing, or as far in advance as is reasonably possible if an accelerated hearing is scheduled with the consent of the parties, the Chair will send a Notice of Hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The letter will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential corrective actions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities. If any party does not appear at the scheduled hearing, the hearing will be held in their absence.
- Notification that the parties may have the assistance of an advisor of their choosing at the hearing (See Section VIII.F on “Advisors” above).

K. Pre-Hearing

The Chair, after consultation with the parties as necessary, will provide the names of witnesses who will be participating in the hearing, all pertinent evidence, and the investigation report between the parties at least ten days prior to the hearing. Any witness scheduled to participate in the hearing must have been interviewed first by investigators (or have proffered a written statement), unless all parties consent to the witness’ participation in the hearing.

The parties will be given a list of the names of all Hearing Panel members in advance of the hearing. All objections to any panelist must be raised in writing and submitted to the Title IX Coordinator prior to the hearing. Hearing Panel members will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing.

The Hearing Panel members will be given a list of the names of all parties and witnesses at least seven days in advance of the hearing. Any Hearing Panel member who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties and all witnesses in advance of the hearing.

The Chair, in consultation with the parties and investigators, may decide in advance of the hearing that certain witnesses do not need to be physically present if their testimony can be adequately summarized by the investigator(s) in the investigation report or during the hearing. Otherwise, all parties will have the opportunity to present witnesses, to present facts and arguments in full, and

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to submit questions for witnesses and parties. Procedures below describe the questioning mechanisms permitted.

If a party or parties prefer not to attend the hearing in person, the parties should request alternative arrangements from the Chair at least two days prior to the hearing. The Chair can arrange to use technology to allow remote testimony without compromising the fairness of the hearing.

L. Hearing Procedures

Hearings will be conducted in a private, closed session. The Hearing Panel has the authority to hear all allegations of discrimination, harassment, and retaliation and may also hear any additional alleged policy violations that have occurred in concert with the discrimination, harassment or retaliation, even though those collateral allegations may not specifically fall within the Policy on Prohibited Discrimination, Harassment, and Sexual Misconduct.

Participants will include the non-voting Chair, the three (3) members of the Hearing Panel, the investigator(s) who conducted the investigation, the parties, advisors to the parties, and any called witnesses.

The Chair will explain the procedures and introduce the participants. The investigator(s) will present the redacted investigation report and the parties will have an equal opportunity to respond. The investigators' analysis and/or recommendation(s) are not admissible at the hearing.

The parties are entitled to provide opening and closing statements and to testify. The parties are also entitled to submit questions/topics for those testifying. The parties may never directly address one another. The Chair and Hearing Panel members will conduct all the questioning. All submitted questions will be asked unless the Chair determines that the questions are irrelevant, prohibited by the Policy (e.g., questions pertaining a party's sexual past), harassing, or duplicative. The Chair has sole discretion to determine admissibility of the submitted questions.

If any party or advisor is disrespectful of or disruptive to the proceedings, the Chair will take actions they deem appropriate to maintain appropriate decorum.

M. Participation in Panel Hearing

The parties and their advisors have the right to be present at the hearing. If, despite being notified of the date, time, and location of the hearing, any party is not in attendance, the hearing may proceed without the party's participation. Investigators will be present, unless the Chair permits an absence under extenuating circumstances.

N. Evidence Presented at the Hearing

Formal rules of evidence do not apply. Any evidence that the Hearing Panel believes is relevant and credible may be considered, including an individual's prior misconduct history as well as evidence indicating a pattern of misconduct. The Chair is responsible for addressing any evidentiary concerns prior to and/or during the hearing. The Chair may exclude irrelevant or

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immaterial evidence and may ask the Hearing Panel to disregard evidence lacking in credibility or that is improperly prejudicial. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

Unless the Chair determines it is appropriate, no one will present information or raise questions concerning: (1) incidents not directly related to the possible violation, unless they evidence a pattern, (2) the sexual history of the parties (though there may be a limited exception with respect to pattern, the sexual history between the parties, or where evidence regarding the reporting party's sexual history is offered to prove that someone other than the responding party engaged in the reported misconduct), (3) or the character of the parties. While previous conduct violations by the responding party are not generally admissible as information about the present allegation, the investigators may supply the Hearing Panel with information about previous findings to consider as possible evidence of pattern and/or predatory conduct.

The Chair will allow witnesses who have relevant information to be present only to respond to specific questions from the Hearing Panel or the parties involved, and then be excused.

In hearings involving more than one responding party or in which two (2) or more reporting parties have accused the same individual of substantially similar conduct, the standard procedure will be to hear the allegations jointly. However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each reporting party to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each reporting party.

Hearings (except for deliberations) are recorded for purposes of review in the event of an appeal. Hearing Panelists, the parties, their advisors, and appropriate administrative officers will be allowed to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given, or be allowed to make, a copy of the recording without permission of the Title IX Coordinator.

O. Deliberation and Decision-making

The three (3) members of the Hearing Panel and the non-voting Chair will deliberate in a closed session to determine whether the responding party is responsible or not responsible for the policy violation(s) in question. The Hearing Panel will base the determination(s) on a preponderance of the evidence (i.e., whether it is more likely than not that the responding party committed each alleged violation). A majority vote of the Hearing Panel is required to determine the finding.

When there is a finding of responsibility on one or more of the allegations, the parties will be invited to submit a statement to the Hearing Panel for consideration in determining an appropriate corrective action. The Hearing Panel will review the impact statements and will recommend the appropriate corrective action(s). The Chair, in collaboration with the Hearing Panel, will then prepare a written deliberation report and deliver it to the Title IX Coordinator, detailing the finding, the information used in support of its recommendation, and any information the Hearing Panel excluded from its consideration.

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Using the deliberation report, the Title IX Coordinator will prepare a letter of outcome and will share the letter, including the final determination and applicable corrective action(s), within three days of receiving the Hearing Panel’s deliberation report. The letter of outcome will be shared with the parties without significant time delay between notifications. Notification will be made in writing and may be delivered in person, by mail, or email. Once mailed, emailed and/or received in-person, MUSC will presume that notice has been provided.

The letter of outcome will identify the specific violations, including the relevant policy section and will contain a description of the procedural steps taken by MUSC from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties, and witnesses, site visits, methods used to obtain evidence, and hearings held.

The letter will specify, to the extent MUSC is permitted to share such information under state or federal law, (1) the finding on each alleged policy violation; (2) the findings of fact that support the determination; (3) conclusions regarding the application of the relevant policy to the facts at issue; (4) a statement of, and rationale for, the result of each allegation; (5) any corrective action(s) issued; and (5) any remedies provided to the reporting party designed to ensure access to MUSC’s educational or employment program or activity. The notification will also include information on when the results are considered by MUSC to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any appeals options that are available.

IX. APPEAL PROCESS

All requests for appeal consideration must be submitted in writing to the Title IX Coordinator within five days of the delivery of the written letter of outcome to the parties. Any party may appeal the findings, but appeals are limited to the following grounds.

Appeal Grounds:

1. A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g., substantiated bias, material deviation from established procedures).
2. To consider new evidence, that was unknown or 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 in the appeal request.
3. The corrective action(s) imposed is an insufficient or excessive remedy for this offense and the cumulative record of the responding party.

The Executive Vice President for Academic Affairs and Provost is the designated Appeal Officer and will review the appeal request(s). The original finding and corrective actions will stand if the appeal is not timely or is not based on the grounds listed above, and such a decision is final.

When any party requests an appeal, the Title IX Coordinator will share the appeal request with the other party(ies), who may file a response within three days of receiving a copy of the appeal, and/or bring their own appeal on separate grounds within the original appeal timeframe. If new grounds are raised, the original appealing party will be permitted to submit a written response to these new grounds within three days. Any response or appeal request will be shared with each party.

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Decisions by the Appeal Officer are to be deferential to the original decision, making changes to the finding only when there is clear error. Appeals are not intended to provide for a full re-hearing of the allegations. In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the grounds for appeal. An appeal is not an opportunity for the Appeal Officer to substitute their judgment for that of the original Hearing Panel merely because they disagree with its finding. Appeals granted based on new evidence should be remanded to the original investigators and/or Hearing Panel for reconsideration.

The Title IX Coordinator will confer with the Appeal Officer and render a written decision on the appeal to all parties. The letter of outcome for the appeal will specify the finding on each alleged Policy violation, any corrective action that may result, and the rationale supporting the findings. The letter of outcome for the appeal will be shared with the parties without significant time delay between notifications. Notification will be made in writing and may be delivered in person, by mail, or by email. Once mailed, emailed and/or received in-person, MUSC will presume that the notice was delivered.

Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or corrective action is changed on appeal (except in the case of a new hearing).

In cases where the appeal results in reinstatement to the University or resumption of privileges, all reasonable attempts will be made to restore the responding party to their prior status.

X. CORRECTIVE ACTION

The corrective action is designed to identify and implement a tailored and individual response intended to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects, while supporting MUSC's mission. Corrective action(s) may also serve to promote safety and/or deter other individuals from similar future behavior. Corrective actions may include targeted or broad-based educational programming or training designed to help the responding party develop insight into how their behavior impacted the reporting party and the MUSC community and how such behavior can be prevented in the future.

In determining the appropriate corrective action(s), the following factors may be considered:

- the nature of the conduct, including whether it involved violence;
- the impact of the conduct on the reporting party;
- the impact of the conduct on the MUSC community;
- expression of remorse or acceptance of responsibility by the responding party;
- maintenance of a safe and respectful working and learning environment;
- any mitigating or aggravating circumstances; and
- prior misconduct by the responding party, including the responding party's relevant prior discipline history, both at the MUSC or elsewhere, and any criminal convictions, if such information is available and known.

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Corrective Actions for Student Responding Parties may include but are not limited to the following: verbal or written reprimand; probation; suspension; restitution; restriction from employment at MUSC; restriction from educational program attendance and/or educational project; professional assessment; transfer or removal from university-sponsored housing; recommended participation in sessions at Counseling and Psychological Services or another mental health provider; removal from specific courses or activities, no-contact order, no-trespass directive, transcript notification and/or notification to other institutions, and withholding or delaying the conferral of the degree. Student-employees who are reported to have engaged in Prohibited Conduct in their employment capacity may be subject to corrective action both in connection with their employment and in connection with their student status, as appropriate under applicable processes.

Corrective Actions for Employee Responding Parties (including residents, postdoctoral fellows, interns, and trainees) may include but are not limited to, warning (written or verbal), performance improvement/management process, required counseling, required training/education, loss of annual pay increase, loss of oversight or supervisory responsibility, demotion, suspension without pay, suspension with pay, termination.

XI. DISCIPLINARY AUTHORITY

Whenever the responding party is found responsible for violating this Policy, the Title IX Coordinator will consult with the appropriate disciplinary authority to determine the corrective action. The disciplinary authority is impartial and free from actual bias or conflict of interest. The proper disciplinary authority is as follows:

For Students, the disciplinary authority is the Dean of Student Affairs (or designee) in the responding party’s college or their designee.

For Staff (excluding residents), the disciplinary authority is the responding party’s direct supervisor and/or the appropriate Human Resources representative.

For Medical Residents, Fellows, and Interns, the disciplinary authority is the Designated Institutional Official (DIO) for GME or supervising training director.

For Postdoctoral Fellows and other Trainees, the disciplinary authority is the training director of their respective program.

For a Responding Party who is both a Student and Employee, the disciplinary authority is the Dean of Student Affairs for the student’s respective college or their designee if the responding party’s primary status is an enrolled student. The disciplinary authority is the Director of Human Resources or their designee when the primary status is an employee who is enrolled as a student as a benefit of their employment.

For Faculty, the disciplinary authority is the faculty member’s immediate supervisor and the Director of Human Resources or their respective designees.

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XII. STATEMENT OF RIGHTS OF THE PARTIES

Throughout the resolution process, the parties will have the same rights, including:

- The right to an equitable and prompt resolution of all credible allegations of prohibited harassment, discrimination, and retaliation made in good faith to MUSC officials;
- The right to timely written notice of all alleged violations, including the identity of the parties involved, the precise misconduct being alleged, the date and location of the alleged misconduct, the implicated policies and procedures, and possible sanctions;
- The right to be fully informed of relevant University policies and procedures;
- The right to be treated with respect by MUSC officials;
- The right to have MUSC policies and procedures followed without material deviation;
- The right to not be pressured to mediate or otherwise informally resolve any reported misconduct;
- The right to not be discouraged by MUSC officials from reporting sexual misconduct, harassment, discrimination, or retaliation to both on-campus and off-campus authorities;
- The right to be informed by MUSC officials of options to notify proper law enforcement authorities, and the option to be assisted by MUSC officials in notifying such authorities. This also includes the right not to be pressured to report;
- The right to be informed of available interim measures and supportive measures;
- The right to an MUSC-implemented no-contact order (or a no-trespass order against a non-affiliated third party) when a person has engaged in conduct that presents a danger to the welfare of the party or others;
- The right to not have irrelevant prior sexual history or character admitted as evidence;
- The right to know the relevant evidence obtained, and to respond to that evidence on the record;
- The right to receive a copy of the investigation report, including all factual, policy, and/or credibility analyses performed, and all relevant evidence available and used to produce the investigation report, and the right to respond to the investigation report;
- The right to regular updates on the status of the investigation and/or resolution;
- The right to preservation of privacy, to the extent possible and permitted by law;
- The right to petition that any MUSC representative in the process be recused because of demonstrated bias and/or conflict of interest;
- The right to have an advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process;
- The right to the use of the preponderance of the evidence standard to make a finding after an objective evaluation of all relevant evidence;
- The right to be present for all testimony given and evidence presented during any resolution-related hearing;
- The right to submit an impact statement in writing to the Hearing Panel following determination of responsibility, but prior to sanctioning;
- The right to be promptly and simultaneously informed in writing of the finding(s), sanction(s), if any, and a detailed rationale of the outcome;¹⁰

¹⁰ In the event either party is deceased, their next of kin will receive the notification upon written request.

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- The right to be simultaneously informed of the opportunity to appeal the finding and sanction of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the University; and
- The right to be simultaneously informed in writing of when a decision by the University is considered final.

XIII. EDUCATION AND PREVENTION PROGRAMS

MUSC is committed to offering educational programs to promote awareness and prevention of Prohibited Conduct. Educational programs include an overview of the University's policies and procedures; relevant definitions, including Prohibited Conduct; discussion of the impact of alcohol and illegal drug use; affirmative consent; safe and positive options for bystander intervention; review of resources and reporting options available for students, faculty, and staff; and information about risk reduction. Incoming first year students and new employees receive primary prevention and awareness programming as part of their orientation. Returning students and employees also have ongoing opportunities for training and education.