

MOREHOUSE COLLEGE
SEXUAL MISCONDUCT POLICY

AUGUST 14, 2020

Submitted by the
Office of Title IX, Ethics & Compliance

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A. Notice of Nondiscrimination

As a recipient of federal funds, Morehouse College is required to comply with Title IX of the Higher Education Amendments of 1972, 20 U.S.C. § 1681 et seq. ("Title IX"), which prohibits discrimination on the basis of sex in educational programs or activities, admission, and employment. Inquiries concerning the application of Title IX may be referred to Morehouse College's Title IX Coordinator or the U.S. Department of Education's Office for Civil Rights. Morehouse College's Title IX Coordinator is Mr. Keith Cobbs, whose office is located in Gloster Hall, Suite 105, 830 Westview Dr. SW, Atlanta, Georgia 30310. Mr. Cobbs may be contacted by phone at (470) 639-0584 or by email at Keith.Cobbs@morehouse.edu.

B. Introduction and Policy Language

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

This Policy prohibits all forms of, sexual harassment, domestic violence, sexual assault, dating violence, and stalking. This Policy also prohibits retaliation against a person who reports, complains about, or who otherwise participates in good faith in any matter related to this Policy. All of the foregoing conduct shall be referred to as "Prohibited Conduct."

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

No person in the United States shall, based on sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any Educational Program or Activity receiving Federal financial assistance.

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

Upon receipt of a Formal Complaint, the College will take prompt and equitable action to eliminate the Prohibited Conduct (if any), prevent its recurrence, and remedy its effects. In addition, the

College will fulfill its obligations under the Violence Against Women Reauthorization Act of 2013 ("VAWA") amendments to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act") in response to reported Prohibited Conduct.

Students, employees, or third parties who are found to have violated this Policy may face disciplinary action, including expulsion (students) or termination of employment or contractual relationship (employees or third-party contractors). Morehouse College also prohibits other forms of discrimination and harassment, as described in Policy 2.2 Equal Employment Opportunity in the Morehouse Employee Handbook and Student Handbook.

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

The Sexual Misconduct Procedures can be found in the Sexual Misconduct Procedures document, which will continually be published on the College's intranet and external website.

C. Applicability, Jurisdiction & Authority of Title IX Coordinator

The Policy and its procedures will apply to all community members, including students, faculty, administrators, staff, volunteers, vendors, contractors, visitors, and individuals regularly or temporarily employed, who are conducting business, studying, living, visiting, or having any official capacity with the College or on its property. The Policy and the accompanying procedures will also apply to individuals reporting or participating in investigations of such conduct, whether made by students, faculty, staff, or third parties with respect to all Prohibited Conduct occurring after August 14, 2020.

This process begins with a **Formal Complaint** filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the College investigate the allegation of sexual harassment. The process could begin with an anonymous or third party complaint, however, the ability of the College to process this complaint may be compromised.

At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in an Educational Program or Activity of the College.

This Policy applies to the College's Educational Program or Activity, which includes locations, events, or circumstances over which the College exercises substantial control over both the Complainant and Respondent and the context in which the sexual harassment occurs.

This Policy applies to prohibited on-campus conduct. The College strongly encourages reports of Prohibited Conduct. Even if the Policy does not apply to the conduct because of its location, the College may take prompt action to provide for the safety and well-being of the individuals and the broader campus community under applicable College policies.

On-Campus Conduct. This Policy applies to prohibited conduct that occurs on-campus, including conduct which occurs on property owned, controlled, leased, or managed by the College. The Policy also applies to any building owned or controlled by a student organization that is officially recognized by the College.

College Programs. This Policy applies to prohibited conduct that occurs in the context of College employment or Educational Programs or Activities, including, but not limited to, internship programs or Athletic travel.

Off-Campus Conduct. This Policy applies to prohibited conduct that occurs on-college premises and at College-sponsored activities. The College also has the discretion to discipline a student for an act in violation of this Policy or other policies that happens off-campus if that conduct adversely affects the Morehouse College community and/or the pursuit of its objectives. The Title IX Coordinator, in limited discretion and on a case-by-case basis, may refer conduct occurring off-campus and outside of the Title IX jurisdiction to other relevant proceedings, e.g., student code of conduct, faculty or staff grievance processes.

Dismissal (Mandatory and Discretionary): The College **must dismiss** a Formal Complaint or any particular allegations therein if, at any time prior to the reaching of a resolution, it is determined that:

- 1) The conduct alleged in the Formal Complaint would not constitute sexual harassment as defined by Title IX, even if proved;
- 2) The conduct did not occur in an Educational Program or Activity controlled by the College (including buildings or property controlled by recognized student organizations);
- 3) The conduct did not occur against a person in the United States; or
- 4) At the time of filing a Formal Complaint, a complainant is not participating in or attempting to participate in the Educational Program or Activity of the College.

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

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

Upon the mandatory or discretionary dismissal of the Formal Complaint, the College will promptly send written notice of the dismissal, and the reasons therefore, simultaneously to each Party.

This dismissal decision is appealable by either party. The decision not to dismiss is also appealable by any party claiming that a dismissal is required or appropriate.

Within **two (2) business days** of receiving notice of the dismissal, either Party submitting

an appeal must set forth, in writing, in detail, the grounds for review, and attach all material that he/she wishes to have considered in the appellate process. The decision by the Appellate Office is final. A Complainant who decides to withdraw a Complaint may later request to reinstate it or refile it.

D. Definitions

Prohibited types of Sexual Misconduct

Sexual Misconduct is conduct of a sexual nature or conduct based on sex or gender that is non-consensual or has the effect of threatening, intimidating, or coercing a person. The College prohibits the following specific conduct (defined below):

1. Sexual or Gender-Based Discrimination
2. Sexual Harassment;
3. Sexual Assault;
4. Dating Violence;
5. Domestic Violence;
6. Stalking;
7. Retaliation

Other conduct that is not explicitly listed but has the essential elements of being based on sex or gender is non-consensual. If it has the effect of threatening, intimidating, or coercing a person, it will be treated as Prohibited Conduct.

Sex or Gender-Based Discrimination

Sex or gender-based discrimination refers to the disparate treatment of a person or group because of that person's or group's sex, sexual orientation, gender identity, or gender expression.

Sexual Harassment

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

The College has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community, which consists not only of employer and employees, but of students as well. Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Sexual harassment is conduct on the basis of sex that satisfies one or more the following:

- 1) An employee of the College conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct
- 2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's Educational Program or Activity.

- 3) Sexual Assault (defined below); or Dating Violence (defined below); or Domestic Violence (defined below) or Stalking (defined below).

Sexual harassment quid pro quo occurs when a position of authority is used to threaten to impose a penalty or to withhold a benefit for sexual favors, whether or not the attempt is successful. Sexual harassment may involve behavior by a person of either gender against a person of the same or opposite gender. It should be noted that the potential of sexual harassment exists in any of the following relationships: student/student, employee/student, student/employee, and employee/employee. Here and subsequently, “employees” refers to faculty, staff, and administration. Because of the inherent differential in power between College employees and students, sexual relationships between employees and students are prohibited.

A hostile, demeaning, or intimidating environment exists when sexual harassment is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College’s Educational Program or Activity. A hostile environment can be created by anyone involved in a College’s Educational Program or Activities (e.g., administrators, faculty members, staff members, or campus visitors).

Explicit behaviors constituting sexual harassment including, but are not limited to, requests for sexual favors, physical assaults of a sexual nature, sexually offensive remarks, and rubbing, touching or brushing against another’s body. More subtle behaviors may be experienced as intimidating or offensive, particularly when they recur, or one person has authority over another. Such behaviors may include but are not limited to unwelcome hugs or touching, inappropriate staring, veiled suggestions of sexual activity, requests for meetings in non-academic settings, and risqué jokes, stories or images.

These behaviors may range from the most egregious forms, such as sexual violence, to more subtle forms. The College defines acts of sexual violence as physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent, e.g., due to the individual’s age or use of drugs or alcohol, or because an intellectual or other disability prevents the individual from having the capacity to give consent.

Sexual Assault

“Sexual Assault” means an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, as defined in 20 U.S.C. 1092(f)(6)(A)(v).

CRIME DEFINITIONS FROM THE NATIONAL INCIDENT-BASED REPORTING SYSTEM (NIBRS) USER MANUAL FROM THE FBI’S UCR PROGRAM

Sex Offenses

Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

- 1) **Fondling** - The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim

is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

- 2) **Incest** - Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- 3) **Rape** - The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
- 4) **Sexual Assault with an Object** – To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
- 5) **Sodomy** - Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.
- 6) **Statutory Rape** - Sexual intercourse with a person who is under the statutory age of consent.

Dating Violence

The term “dating violence” means violence committed by a person - (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- 1) The length of the relationship.
- 2) The type of relationship.
- 3) The frequency of interaction between the persons involved in the relationship. [34 USC 12291(a)(10)]

Domestic Violence

The term “domestic violence” includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction. [34 U.S.C. 12291(a)(8)]

Stalking

The term “stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to— (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress. [34 USC 12291(a)(30)]

Retaliation

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

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

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

E. Additional Definitions

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

Aiding, Abetting, or Inciting

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

Advisor

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

Consent

“Consent” is:

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

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

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

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

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.

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

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

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

Complainant

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

Complaint (formal)

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

Confidential Resource

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

Educational Program and College-sponsored activity

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

Final Determination

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

Formal Grievance Process

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

Force

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

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

Hearing Decision-maker (Panel or Officer)

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

Incapacitation

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

- 1) **Incapacitation is not necessarily the same as legal intoxication.**
- 2) Where alcohol or other drugs are involved, evaluating Incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects a person's.
 - a. decision-making ability; awareness of consequences;
 - b. ability to make informed, rational judgments;
 - c. capacity to appreciate the nature and quality of the act;
 - d. or level of consciousness.
- 3) The assessment is based on objectively and reasonably apparent indications of Incapacitation when viewed from the perspective of a sober, reasonable person.
- 4) **Intentional Incapacitation** providing alcohol or other drugs to a person with the intent to render the person Incapacitated.

Live Hearing

A **"Live Hearing"** may be conducted with all parties physically present in the same geographic location or, at the College's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other. At the live hearing, the decision-maker(s) must permit each Party's advisor to ask the other Party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.

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

Maxient

“Maxient” is a software for managing behavior records. This system will serve as the software for all relevant Title IX records. All records will be kept confidential and only shared with other

College officials with a legitimate educational interest barring exigent circumstances or to protect the community's safety.

Reporting Party

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

Remedies

Remedies must be designed to **restore or preserve equal access** to the College's Educational Program or Activity. Such treatments may include the same individualized services described in § 106.30 as "supportive measures"; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.

Respondent

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

Supportive Measures

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

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

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

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

Student Organization

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

Third-Party

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

Title IX Coordinator

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

F. Confidentiality- Respect for Privacy

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

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

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

- 1) The Title IX Coordinator will weigh the Complainant's request(s) for confidentiality and/or wish not to proceed with an investigation against the College's obligation to provide a safe, non-discriminatory environment.
- 2) Specifically, the Title IX Coordinator will consider the following factors:
 - a. The seriousness of the alleged misconduct;
 - b. Whether there have been other complaints of Sexual Misconduct or Sex Discrimination against the accused at the College or any other school or in the nature of prior criminal charges;
 - c. Whether the accused threatened further misconduct or violence against the Complainant or others;
 - d. Whether multiple persons committed Sexual Misconduct or Sex Discrimination;
 - e. Whether the Sexual Misconduct involved the use of a weapon;
 - f. The age of the Complainant;
 - g. Whether the College possesses other means to obtain relevant evidence of the misconduct;
 - h. Whether the Complaint reveals a pattern of conduct at a particular location or by a particular individual and or student group or organization;
 - i. And any other information that is relevant under the circumstances.

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

G. Actual Knowledge, Official with Authority, and Mandatory Reporters

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

The College requires that all mandatory reporters share a report of misconduct with the Title IX Coordinator or a Deputy Title IX Coordinator. The purpose of this requirement is to permit the College to take immediate and corrective action to respond to Prohibited Conduct allegations. Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as “Take Back the Night” marches, social media blogs, or speak-outs do not provide notice that must be reported to the Coordinator by employees unless the Complainant clearly indicates that they desire a report to be made or a seek a specific response from the College. Supportive measures may be offered as the result of such disclosures without formal College action.

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

H. Reporting Options

Confidential Employees are those individuals who have a confidentiality privilege to protect the personal identification of a Complainant.

- 1) These confidential employees (i.e., *health care professional, licensed counselors, etc.*) can fulfill their reporting requirements by making general reports for statistical purposes and pattern tracking but do not divulge personally identifiable information without client consent.

- 2) Employees who do not have a confidentiality privilege should not promise confidentiality to Parties. An employee can tell the Parties that he/she will only tell the individuals that must know and do his/her best to protect the Complainant's identity but cannot promise confidentiality. **If the Parties want confidentiality, then he/she must be referred to a confidential employee (i.e., health care provider or licensed counselor).**

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

Confidential Resources

- 1) **Student Counseling and Accessibility Center**
Brazeal Hall, Ground Floor (north end of campus)
830 Westview Dr. SW,
Atlanta GA 30314
(470) 639-0231
- 2) **James B. Ellison, Sr. Student Health Center**
Brazeal Hall, Ground Floor (north end of campus)
830 Westview Dr. SW,
Atlanta GA 30314
(404) 215-2637
- 3) **Martin Luther King, Jr. International Chapel at Morehouse College**
830 Westview Drive, S.W.
Atlanta GA 30314
(470) 639-0323

Campus Reporting Options

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

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

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

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

- 1) **Mr. Keith Cobbs, Title IX Coordinator**
Title IX Office, Ethics & Compliance
830 Westview Drive, S.W.
Gloster Hall, Room 105
Atlanta, GA 30314
(470) 639-0584
keith.cobbs@morehouse.edu

- 2) **Ms. Cassandra Tarver-Ross,**
Deputy Title IX Coordinator and Associate Vice President of Human Resources
830 Westview Drive, S.W.
Gloster Hall, Suite 100
Atlanta, GA 30314
(470) 639-0514
cassandra.ross@morehouse.edu

- 3) **Dr. Michael Turner,**
Deputy Title IX Coordinator and Director of Student Relations and Ombudsperson
830 Westview Drive, S.W.
Kilgore Student Center, Suite 200
Atlanta, GA 30314
(470) 639-0519
michael.turner@morehouse.edu

- 4) **Ms. Youdlyne Renard**
Deputy Title IX Coordinator and Athletic Advisor
830 Westview Drive, S.W.
Frederick Douglass Academic Center
Atlanta, GA 30314
(470) 639-0832
youdlyne.renard@morehouse.edu

5) **Ms. Qusiha Buggs**

Deputy Title IX Coordinator and Student Success Specialist
830 Westview Drive, S.W.
Frederick Douglass Academic Center
Atlanta, GA 30314
(470) 639-0487
quisha.buggs@morehouse.edu

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

- a. Ensure Title IX compliance and the equitable treatment of Complainant and Respondent;
- b. Serve as Official(s) with Authority;
- c. Oversee Deputy Title IX Coordinator(s);
- d. Assess initial intake reports;
- e. Knowledgeable in the College policies and procedures;
- f. Provide information about resources available to both the Complainant and Respondent;
- g. Assign appropriate investigators to individual cases;
- h. Identify the applicable College policy to resolve the complaint in a prompt and equitable manner;
- i. Track and monitor incidents of sex discrimination and sexual misconduct;
- j. Provide information on options for complaint resolution;
- k. Coordinate education and prevention efforts; and
- l. Report crimes to the Clery Administrator for reporting in the ASR.

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

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

Inquiries or complaints concerning the application of Title IX may be referred to the Title IX Coordinator and/or the United States Department of Education:
United States Department of Education Office for Civil Rights
61 Forsyth Street, S.W., Suite 19T70 Atlanta, GA 30303-8927
Telephone: (404) 974-9406
Fax: (404) 974-9471

Email: OCR.Atlanta@ed.gov

Morehouse Campus Police are available to report any incident of crime or violence and any incidents involving prohibited conduct. Morehouse Campus Police and the 24-hour Ethics & Compliance Hotline may be reached at the following phone numbers.

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

I. Rights and Protections

Supportive Measures

Upon receipt of a Formal Complaint, in person, by telephone, in writing, or by email, the College will provide reasonable and appropriate supportive measures designed to eliminate any existing hostile environment and protect the Parties involved. The College will make reasonable efforts to communicate with the Parties to ensure that all safety, emotional, and physical well-being concerns are addressed.

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

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

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

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

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

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

- a. Referral to the Employee Assistance Program;
- b. Modifications of work schedules;
- c. Mutual restrictions on contact between the Parties;
- d. Changes in work or housing locations;
- e. Leaves of absence;
- f. Increased security and monitoring of certain areas of the campus.

Emergency Removal

The College may remove a student respondent from the College's Educational Program or Activity on an emergency basis, provided that the College undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act. The individualized safety and risk analysis will be completed by the Behavior Intervention Team (BIT). This team will be chaired by the Director of Student Advocacy and Accountability to include membership from Academic Affairs, Counseling Center, Student Development Services, and Campus Police.

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

The College will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Behavioral Intervention Team, these actions may include, but are not limited to: removing a student from a residence hall, restricting a student's or access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

At the discretion of BIT, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties. The chair of the BIT will inform the Parties simultaneously, in writing, in detail, of the outcome of the Emergency Removal.

Administrative Leave

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

Protection from Retaliation

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

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

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

The College will take immediate and responsive action to any report of retaliation and pursue disciplinary action as appropriate. Any individual reporting Prohibited Conduct is entitled to

protection from any form of retaliation following a report made in good faith, even if the report is later not proven.

Coordination with Concurrent Legal Proceedings

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

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

Advisor of Choice

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

An Advisor is a person chosen by a Party, or appointed by the institution, to accompany the Party to meetings related to the resolution process, to advise the Party on that process, and to conduct cross-examination on behalf of that Party at a Live Hearing.

An Advisor may only participate in a "Live Hearing's" cross-examination of the opposing Party, of witnesses and objecting to the other Party's questions. At the Live Hearing, the Panel Chair will permit each Party's Advisor to ask the other Party, and any witnesses, all relevant questions and follow-up questions, including those challenging credibility. During other parts of the "Live Hearing," the Advisor may not speak on the part of the individual he or she is advising.

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

Conflict of Interest

The Title IX Coordinator manages the Title IX Team and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures. The members of the Title IX Team are vetted and trained to

ensure they are not biased for or against any Party in a specific case, or for or against Complainants and/or Respondents, generally.

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

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

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

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

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

- 1) Intake and Initial Fact-Gathering
- 2) Informal Resolution
- 3) Formal Resolution
- 4) Investigative Reports
- 5) Notice of Hearing and Determination Panel
- 6) Sanction(s)
- 7) Notification of Outcome
- 8) Appeal of Decision

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

J. Additional Matters

Recordkeeping

The College will maintain records for a period of seven years:

- 1) Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;

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

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

FERPA and Applied to the Title IX Proceedings

The College provides "under this definition, a parent (or eligible student) has a right to inspect and review any witness statement that is directly related to the student, even if that statement contains information that is also directly related to another student if the information cannot be segregated and redacted without destroying its meaning." The College will not impair due process in student discipline cases to promulgate regulations to implement FERPA. Because the evidence and investigative report that is being shared directly relevant to the allegations in a complaint, they are also directly relevant to both the Complainant and Respondent. If there is a direct conflict between the requirements of FERPA and the requirements of Title IX, such that enforcement of FERPA would interfere with the primary purpose of Title IX to eliminate sex-based discrimination at the College, the requirements of Title IX override any conflicting FERPA provisions.

Duty of Honesty

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

Duty of Cooperation

All Parties and witnesses are obligated to cooperate with the Title IX Coordinator and any persons charged with implementing the Sexual Misconduct Policy. Any person who knowingly interferes with the actions taken to implement the reporting, investigation, or resolution of matters under the Sexual Misconduct Policy may be subject to separate College disciplinary action.

Recording the Proceedings

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

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

Follow-up with Complainant and Respondent

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

Amnesty for Students Reporting Misconduct

The College encourages reporting under the Sexual Misconduct Policy and seeks to remove barriers to reporting. The College generally will not hold a student in violation of the College's Community Standards of prohibited use of drugs or alcohol, who reports conduct or is a witness during an investigation under the Sexual Misconduct Policy.

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

Online Harassment and Cyberbullying

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

Off-campus harassing speech by employees, whether online or in person, may be regulated by the College only when such speech is made in an employee's official or work-related capacity.

Responsible Office

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

K. Revision of this Policy

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

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

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

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

This Policy and procedures are effective **August 14, 2020**.

Revision History

Approved by the President; Compliance, Enterprise Risk & Policy Committee; Title IX Committee. Effective Date