

# **Meredith College Title IX and Other Prohibited Sexual Misconduct Policy**

Effective August 14, 2020

## **General Information**

Meredith College is committed to providing a safe and positive learning, living and working environment. Members of the campus community are expected to treat others with integrity and respect and to take responsibility for their actions. Meredith College will not tolerate sexual misconduct including, but not limited to, non-consensual sexual intercourse, non-consensual sexual contact, sexual exploitation, sexual harassment, sexual coercion, relationship violence (including domestic/intimate partner violence and dating violence), or stalking.

Sexual misconduct can be committed by men or women, and it can occur between persons of the same or different genders. Acts of sexual misconduct are forms of sex discrimination prohibited by College policies, in addition to Title IX regulations or other state or federal laws. This document may use the term "sexual misconduct" to refer to any or all of those prohibited behaviors.

Title IX of the Educational Amendments of 1972 prohibits any person in the United States from being discriminated against on the basis of sex in seeking access to or participation in any educational program or activity receiving federal financial assistance. The U.S. Department of Education, which enforces Title IX, has long defined the meaning of Title IX's prohibition on sex discrimination broadly to include various forms of sexual harassment and sexual violence that interfere with a student's ability to equally access educational programs and opportunities.

Any person may report sex discrimination, including sexual harassment, whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment. Reports may be made in-person, by mail, by telephone, or by electronic mail, using the contact information listed for a Title IX Coordinator, or by any other means that results in a Title IX Coordinator receiving the person's verbal or written report. An online reporting form is also available here ([Online Reporting Form](#)).

### **Contact Information for the Title IX Coordinators:**

**Pamela Davis Galloway**  
**Director of HR/ Title IX Coordinator**  
**Meredith College**  
**3800 Hillsborough Street**  
**118 Park Center**  
**Raleigh, NC 27607**  
[davisjam@meredith.edu](mailto:davisjam@meredith.edu)  
**919-760-8760**

**Ann Gleason**  
**Dean of Students/ Deputy Title IX Coordinator**  
**Meredith College**  
**3800 Hillsborough Street**  
**214 Park Center**  
**Raleigh, NC 27607**  
[gleasona@meredith.edu](mailto:gleasona@meredith.edu)  
**919-760-8521**

If after office hours, Campus Police may be contacted at 919-760-8888 and they will notify a

Title IX Coordinator, who will respond.

**Final Rule Under Title IX:** The U.S. Department of Education released updated Title IX regulations, effective August 14, 2020. The following Title IX and Other Prohibited Sexual Misconduct Policy (Policy) is based on the new regulations and only applies to reports and formal complaints brought on or after August 14, 2020. Any reports or complaints brought before August 14, 2020 will be investigated and addressed according to the College's prior Sexual Misconduct and Title IX Policy.

The elements established in this Policy under the Final Rule have no effect and are not transferable to any other policy of the College for any violation of the Honor Code, employment policies, or any civil rights violation except as defined in this Policy. This Policy does not set a precedent for other policies or processes of the College and may not be cited for or against any right or aspect of any other policy or process.

Under the Final Rule, Meredith College must narrow both the geographic scope of its authority to act under Title IX and the types of "sexual harassment" that fall under its Title IX investigation and hearing process. Only incidents falling within the Final Rule's definition of sexual harassment will be investigated under the Title IX Grievance procedures, and, if appropriate, brought to a live hearing through the Title IX Grievance Procedures.

To the extent that alleged misconduct falls outside of Title IX, or misconduct falling outside of Title IX is discovered in the course of investigating covered Title IX misconduct, the College retains authority to investigate and address the allegations (considered to be non-Title IX violations) under the policies and procedures defined within this policy, or other applicable college policies and grievance procedures.

**Allegations Potentially Falling Under Two Policies:** If the alleged conduct, if true, includes conduct that would constitute covered sexual harassment and conduct that would not constitute covered sexual harassment, the Title IX grievance procedures will be applied to investigation and adjudication of only the allegations that constitute covered sexual harassment.

**Scope and Jurisdiction of Prohibited Sexual Misconduct Policy:** This policy applies to all members of the Meredith College community, including anyone involved in a Meredith program or activity, including students, employees, vendors, campus visitors, and independent contractors. All campus community members are responsible for their actions and behavior, whether the conduct in question occurs on campus or in another location. Members of the campus community have a responsibility to adhere to College policies and local, as well as state and federal law.

This policy applies to conduct occurring on Meredith's campus or off campus in the context of Meredith College employment or educational activities or programs including study abroad and internship programs. Other off-campus actions including on-line or electronic activities that have an adverse effect on campus or off-campus Meredith activities or programs may be subject to this policy. In determining whether the College has jurisdiction over off-campus conduct that is not a part of a College educational activity or program, the College will look at the seriousness of the conducts, the risk of harm, whether both parties involved are members of the College

community, and whether the alleged action is part of a series of actions that occurred on and off campus.

In situations in which both the Complainant and the Respondent are members of the Meredith College community, this policy will apply regardless of the location of the incident. In particular, off-campus conduct that is likely to have an actual or potential adverse impact on, or poses a threat or danger to, any member of the campus community or the College is within the scope of this policy.

Sexual misconduct that is alleged to have occurred at a significant distance from the College, or that is reported anonymously, may be more difficult to investigate. Complaints brought by those who are not members of the College community will be handled according to appropriate campus policies and procedures. Even when reported activity is not within the scope of this Policy, the College will offer available resources and supportive measures to College community members to assist them. Individuals are encouraged to report misconduct regardless of where the incident occurred, or who is alleged to have committed it. Even if the College does not have jurisdiction over the Respondent, the College will take prompt action to provide for the safety and well-being of the Complainant and the broader campus community, to the extent possible.

**Specific Scope and Jurisdiction of Title IX:** Title IX would apply when all of the following elements are met, in the reasonable determination of the Title IX Coordinator:

1. The conduct is alleged to have occurred on or after August 14, 2020;
2. The conduct is alleged to have occurred in the United States;
3. The conduct is alleged to have occurred while the individual was participating in a Meredith College education program or activity, to include any on-campus premises, any off-campus premises that the College has substantial control over, or activity occurring within computer or internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of the College's programs and activities over which Meredith College has substantial control; and
4. The alleged conduct, would constitute covered sexual harassment, as defined in this policy.

**Determining Title IX or Other Prohibited Sexual Misconduct:** When a report or allegation is received, a Title IX Coordinator will determine whether the alleged activity is covered under Title IX. The Title IX Coordinator may delegate responsibilities under this Policy to a trained responsible administrator(s).

**Reporting:** If you believe you or someone you know has experienced sexual misconduct, promptly report the incident(s) to a [Meredith Title IX Coordinator](#). All Meredith College employees, with the exception of those identified as [Confidential Resources](#), are designated to be [Responsible Employees](#) and are required to report any incident of sexual misconduct that occurs on or off campus, to a Title IX Coordinator. After receiving a report, a Title IX Coordinator will follow up with the individual who submitted the report. A report that is submitted or communicated to a Title IX Coordinator is not considered a Formal Complaint under Title IX or the Sexual Misconduct Policy.

- An online reporting form is included on the College's Title IX web page at [www.meredith.title-ix/](http://www.meredith.title-ix/)
- Anonymous Reports: Anonymous reports of sexual misconduct may also be submitted online through the online reporting form located on the College's Title IX web page at [www.meredith.edu/title-ix](http://www.meredith.edu/title-ix). The College may be limited in investigating or addressing an anonymous report if minimal information is provided.
- Responsible Employees: All Meredith College faculty and staff (including resident assistants) who are not identified as confidential resources are Responsible Employees. Responsible Employees who become aware of a suspected incident of sexual misconduct that occurred on or off campus that may affect the safety or well-being of a member of the campus community must report this information to a Title IX Coordinator. Responsible Employees will notify a Title IX Coordinator via email, phone call or in-person meeting and will not use the College's reporting form for any disclosures they have received. No employee is authorized to investigate or resolve complaints of sexual misconduct without the involvement of a Title IX Coordinator.
- If you are unsure about what constitutes sexual misconduct at Meredith College, please contact a Title IX Coordinator.
- All persons are encouraged to make a report of sexual misconduct regardless of the location or time it occurred and to seek assistance from campus or community resources. A Title IX Coordinator will assess the incident at issue, any risk of harm to the parties or others, including the broader campus community, and any necessary and appropriate interim protective or supportive measures necessary.
- At the time of reporting, the Complainant does not have to make a decision about the filing of a Formal Complaint. The decision on how to proceed can occur over time and, throughout that process, the College will provide resources and supportive measures regardless of what decision is made or if one has been made.
- Medical Amnesty: In accordance with Meredith College's medical amnesty policy, a student who reports sexual misconduct will not be subject to Honor Council or disciplinary proceedings for her/his own personal consumption or possession of alcohol at or near the time of the incident, provided that actions did not place the health or safety of any other person at risk or violate additional College policies.
- Reports to Campus Police and Local Law Enforcement: Instances of sexual misconduct may violate both the College's sexual misconduct policy and criminal law. Complainants may pursue their complaints through either or both of the Meredith College reporting process for sexual misconduct and through the criminal justice system, and Meredith College encourages Complainants to pursue these avenues at any time, if they so choose. Campus Police at Meredith College may be reached at 919-760-8888 and can provide information about the off-campus criminal reporting process.
- The off-campus criminal investigation is independent from any investigation that is reported to Meredith College officials under this policy. Regardless of whether a Complainant decides to pursue a criminal investigation, Meredith College will take immediate steps to investigate the complaint, offer supportive services, and to ensure safety of the campus community. If a criminal complaint is filed in addition to a complaint reported to Meredith College, the College will continue implementing its procedures and protections regardless of the timeline or outcome of the criminal procedures.

- Reports to Other Campuses: Upon request of the Complainant, sexual misconduct committed by a student from another campus can be referred by the Dean of Students or Campus Police to that student’s campus for reporting and consideration under that institution’s sexual misconduct and Title IX procedures.
- Office of Civil Rights Reporting: In addition to reporting to on-campus resources and off-campus law enforcement officials, a Complainant also has the option of filing a complaint at any time with the United States Department of Education - Office of Civil Rights. The Office of Civil Rights for North Carolina is located at:
  - Department of Education, 400 Maryland Avenue, SW, Washington, D.C. 20202-1475
  - Telephone: 2020-453-6020; Email: [OCR.DC@ed.gov](mailto:OCR.DC@ed.gov)

**Confidential Resources:** While all persons receiving a report of sexual misconduct understand the desire to keep information confidential, maintaining confidentiality is not always possible. The designated Confidential Resources may be consulted at any time, including prior to submitting a report to the College or to off-campus law enforcement officials. Confidential Resources are those individuals at Meredith College permitted to maintain confidentiality, with the exception being when the individual gives express permission to speak with others. Meredith’s Confidential Resources are:

- Licensed counselors in the Counseling Center (919-760-8427) - for students
- Medical and nursing staff in Meredith College Health Services (919-760-8535) - for students
- The Campus Chaplain (919-760-8346) - for students and employees
- Meredith’s Employee Assistance Program 855-RSL-HELP (855-775-4357); [rsli@acieap.com](mailto:rsli@acieap.com); <http://rsli.acieap.com> (available to employees and their families)

To the extent possible, the College will respect an individual’s request for confidentiality; however, the request for confidentiality will be weighed against the College’s obligation to act on information it has received in order to provide a safe campus environment. Title IX Coordinators and employees other than those listed as Confidential Resources may not guarantee confidentiality, but will make every effort to respect privacy interests of all persons involved while assessing the allegation and taking any steps to prevent the conduct, prevent its recurrence, and address its effects.

Confidential Resources are able to share information only with the individual’s express permission. All other employees will share information on a “need-to-know” basis to investigate and resolve matters. Parents will usually not be contacted unless the party is a minor and disclosure is permitted by FERPA, a FERPA waiver is obtained, disclosure is necessary to protect the health or safety of the minor or other individuals, or there is express permission from the minor. The Title IX Coordinators maintain reports of incidents to track systemic issues in order to address them.

**Assistance and Support:** Meredith College recognizes the importance of assisting a member of the Meredith College community who is impacted by sexual violence. In this respect, several

College departments coordinate efforts to offer services and Meredith College strongly urges anyone who has been impacted by sexual violence to:

- **Seek Immediate Medical Assistance:** If you are in Wake County, individuals may contact the Solace Center as soon as possible to receive a forensic evidence exam by a trained Sexual Assault Nurse Examiner (within 120 hours or five days of the assault). This exam is free, and a Raleigh police officer will respond to begin an investigation. Forensic evidence may assist a Complainant in pursuit of a criminal investigation or in obtaining a protective order. If the Complainant is unsure about pressing charges, she/he can receive an anonymous exam, giving the Complainant up to one year to decide about next steps in the criminal justice process. If outside of Wake County, Complainants are encouraged to go to the nearest emergency room. If you have injuries that require immediate medical attention, beyond the injuries sustained through sexual assault, go to the nearest emergency room.
  - Meredith College Campus Police, 919-760-8888;
  - Solace Center, 919-828-3067;
  - Interact's 24-hour Rape Crisis Line, 919-828-3005;
  - Meredith College Health Services, 919-760-8535;
  - [Employee Assistance Program \(EAP\)](#) also provides resources to Meredith College employees. 855-RSL-HELP (855-775-4357); [rsli@acieap.com](mailto:rsli@acieap.com); <http://rsli.acieap.com> (available to employees and their families)
- **Seek On-Campus Crisis Support:**
  - Campus Police - 919-760-9760
  - For confidential on-campus counseling contact the Counseling Center, Chaplain, or Health Services. These offices guarantee confidentiality. For after hours assistance, contact Campus Police at 919-760-8888 and they will have someone from the offices above contact you.

**Supportive Measures:** When the College receives a report under this policy, and even when an individual does not choose to file a Formal Complaint, a Title IX Coordinator and other appropriate College personnel will take reasonable and appropriate interim protective and supportive measures necessary to protect the safety of the parties or witnesses involved, regardless of whether the Complainant chooses to make a report to campus police or local law enforcement. These interim or temporary options or actions ensure the safety of all individuals involved and the fairness of the investigation process; they are not decisions about responsibility and may be changed as additional information is gathered.

Interim supportive measures include but are not limited to:

- Access to counseling and assistance in setting up an initial appointment;
- Rearrangement of class schedule or on-campus living space;
- Arrange for a student to have additional time to complete a course or re-take/withdraw from a class without academic penalty;
- Restrictions on contact or a no-contact order; and/or
- Provide an escort between classes and educational activities; and changes in a class schedule or on-campus work.

**Disability Accommodations:** This process does not alter any institutional obligations under federal disability laws including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for disclosed disabilities to a Title IX Coordinator at any point before or during the grievance procedures that do not fundamentally alter the process. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by either the Complainant or Respondent, even where the individuals may be receiving accommodations in other institutional programs and activities.

Individuals who require disability-related reasonable accommodation in order to equitably participate in the hearing process are encouraged to make their request at least five business days in advance of the hearing in order to allow enough time to make the necessary arrangements. Individuals who need assistance with language translation should make their request five business days in advance of the hearing.

**False Allegations:** It is a violation of this policy to bring a knowingly false complaint under this policy. However, failure to prove a claim of sexual misconduct does not alone constitute proof of a false and /or malicious accusation. Individuals who make frivolous or false reports shall not be deemed to be acting in good faith.

**Retaliation:** Meredith College will keep the identity of any individual who has made a report or complaint of sex discrimination confidential. This also applies to the identity of any individual who has made a report or filed a Formal Complaint of sexual harassment under this policy, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as permitted by the FERPA statutes or as required by law, including the conduct of any investigation, hearing, or judicial proceeding under this policy.

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 of the Education Amendments of 1972 or its implementing regulations.

No person may intimidate, threaten, coerce, or discriminate against any individual 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 policy.

Any intimidation, threats, coercion, or discrimination, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations constitutes retaliation. This includes any charges filed against an individual for Honor Code or campus policy violations that do not involve sex discrimination or sexual harassment, but that arise from the same facts or circumstances as a report or complaint of sex discrimination or a report or Formal Complaint of sexual harassment (per the College's Medical Amnesty Policy).

Complaints alleging retaliation may be filed according to the College's Harassment and Non-Discrimination Policy.

**Range of Sanctions:** If there is a finding of prohibited sexual misconduct, the College will determine a remedy, including sanctions. Sanctions for a finding of responsibility depend upon

the nature and gravity of the misconduct.

Meredith College may impose any of the following sanctions upon students: warning, reprimand, probation, delay of graduation, withholding of degree, revocation of degree, suspension, expulsion, termination or limitation of use of on-campus or off-campus resources, termination of on-campus employment, loss of leadership position, loss of student housing or other privileges, and other restitution.

Sanctions for employees could include one or more of the following: warning, mandated training, corrective action, suspension with pay, suspension without pay, termination, or other corrective actions related to employment.

Sanctions for contractors and visitors may include: a warning, notification to the contracted company, trespass order from campus, and/or termination of employment/contract.

**Clery Act and Timely Warning:** At any time that a serious or continuing threat to students or employees exists, the College will issue timely notification and warning to the campus community. This notification required by the Clery Act will not include identifying information about the reporting party. Pursuant to the Clery Act and the Violence Against Women Act, anonymous statistics regarding reported criminal incidents must be shared with the Campus Police department for inclusion in the daily crime log and in the College's Annual Security Report. This information will include anonymous aggregate data.

**Emergency Removal:** Meredith College retains the authority to remove a Respondent from the College's program or activity on an emergency basis, where the College (1) undertakes an individualized safety and risk assessment and (2) determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of covered sexual harassment justifies a removal.

If Meredith College determines such removal is necessary, the Respondent will be provided notice and an opportunity to challenge the decision immediately following the removal. A student who is removed from campus and who requests to return to campus must contact a Title IX Coordinator for consideration of the request.

**Administrative Leave:** Meredith College retains the authority to place a non-student employee Respondent on administrative leave as a protective measure while an investigation is being conducted, consistent with the policies and procedures outlined in the *Meredith College Employee Handbook*.

## Definitions

**Complainant:** The individual who has experienced alleged sexual misconduct.

**Respondent:** The individual who has been accused of committing sexual misconduct.

**Report:** A report of sexual misconduct that is communicated to a Title IX Coordinator (through direct communication or via the online reporting form). Reporting individuals may be someone

directly involved or someone who has otherwise gained knowledge of alleged sexual misconduct. The report does not have to be verified at the time of reporting. Disclosures to responsible employees are also reported by the employee to a Title IX Coordinator.

**Formal Complaint:** A step in the grievance process used to address Title IX or Other Prohibited Sexual Misconduct. The Formal Complaint initiates the Formal Grievance Process in the grievance procedures outlined for activity that is covered under Title IX and activity covered under Other Sexual Misconduct.

**Bystanders:** Persons who observe possible sexual misconduct and have the opportunity to intervene. Bystanders may report possible sexual misconduct (see “Reporting”) and faculty and staff who observe sexual misconduct are required to report to a Title IX Coordinator.

**Confidentiality:** Confidentiality is the ability of identified [Confidential Resources](#) to not report crimes and violations to law enforcement or college officials without permission, except for extreme circumstances, such as a health and/or safety emergency or child abuse.

**Responsible Employees:** Meredith College faculty and staff (including resident assistants) who are not specifically designated as confidential resources. Responsible employees are required to report disclosures of sexual misconduct to a Title IX Coordinator.

**Privacy:** Privacy is maintained by Meredith College offices and employees who cannot guarantee confidentiality but will maintain privacy to the greatest extent possible, and information disclosed will be relayed only as necessary to investigate and/or seek a resolution and to notify a Title IX Coordinator or designee, who is responsible for tracking patterns and spotting systemic issues. Meredith College will limit the disclosure as much as practicable, even if a Title IX Coordinator determines that the request for confidentiality cannot be honored.

**Consent:** Words or actions that affirmatively demonstrate a knowing or voluntary willingness to engage in mutually-agreed-upon sexual activity. Consent requires an outward demonstration, through understandable words or actions that conveys a clear willingness to engage in sexual contact.

Consent cannot be gained by force, by intimidation, by ignoring objections, or by taking advantage of another's incapacitation. Consent may not be inferred from silence or any other lack of active resistance. It may not be implied by attire or inferred from an individual by spending money on that individual (e.g., buying a meal on a date).

Prior consent does not imply consent to future sexual acts. In addition, consent to one type of sexual act does not automatically imply consent to another type of sexual act. Once a person says "no," it does not matter if or what kind of sexual behavior has occurred at an earlier date in time. For example, if one individual says "no" and the other forces penetration, it is sexual misconduct regardless of whether there has been a past consensual sexual relationship.

Consent to sexual activity may be withdrawn at any time through understandable words or actions that clearly convey that a party is no longer willing to engage in sexual contact; upon clear communication, all sexual activity must cease.

Consent may not be given by the following persons:

- Individuals who are mentally incapacitated at the time of the sexual contact in a manner that prevents him or her from understanding the nature or consequences of the sexual act involved;
- Individuals who are unconscious or otherwise physically helpless; and
- Minors.

**Incapacitation:** Incapacitation is defined as the physical and/or mental inability to make informed, rational judgments that voids an individual's ability to give consent. Incapacitation may be caused by a permanent or temporary physical or mental impairment. Incapacitation may also result from the consumption of alcohol or the use of drugs.

The use of alcohol or drugs may, but does not automatically, affect a person's ability to consent to sexual contact. The consumption of alcohol or drugs may create an incapacity if the nature and degree of the intoxication go beyond the stage of merely reduced inhibition and reach a point in which the Complainant does not understand the nature and consequences of the sexual act. In such case, the person cannot consent.

A person violates the sexual misconduct policy if he or she has sexual contact with someone he or she knows or should reasonably know based on the circumstances is incapacitated. A Respondent cannot rebut a sexual misconduct charge merely by arguing that he or she was drunk or otherwise impaired and, as a result did not know that the other person was incapacitated.

A person who is passed out or unconscious as a result of the consumption of alcohol or drugs is physically helpless and is not able to consent.

### **Role of Title IX Coordinators**

The role of a Title IX Coordinator is to assist in ensuring individuals can safely pursue learning, living and working activities at the College, and the safety of the individual and the campus is the immediate concern. A Coordinator will meet with the Complainant of the reported sexual misconduct to complete an intake process and assist the Complainant in exploring available options and resources including providing the following written information:

- A copy of this Policy, which includes information about confidential resources, filing a Formal Complaint, the investigation process and grievance procedures, and the College's non-retaliation policy
- Resources on campus and in the community, including confidential resources.
- Information about the person's right to pursue criminal action in addition to the College's procedures and actions.
- Information about supportive measures to assure the Complainant's well-being.
- Description of the College's obligation to treat both the Complainant and Respondent fairly and to promptly investigate the reported sexual misconduct as deemed necessary.

A Title IX Coordinator will determine if the reported activity meets the criteria of what is

covered under Title IX, or if the activity will be addressed through the grievance procedures under the Sexual Misconduct Policy or other applicable College policy. This determination by the Title IX Coordinator will inform which of the grievance processes is applicable and the role of the Title IX Coordinator during the process.

## **Prohibited Sexual Misconduct**

### **Prohibited Sexual Misconduct under Title IX**

Under Title IX regulations, “sexual harassment” includes any conduct on the basis of sex that meets one or more of the following:

- An employee conditioning educational benefits on participation in unwelcome sexual conduct (i.e., **quid pro quo** “this for that”);
- **Unwelcome conduct** that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the educational institution’s education program or activity;
- **Sexual assault** (as defined in the Clery Act), means an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation, which includes any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent:
  - *Rape*: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
  - *Fondling*: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
  - *Incest*: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
  - *Statutory Rape*: Sexual intercourse with a person who is under the statutory age of consent.
- **Dating violence**: (as defined in the Violence Against Women Act (VAWA) amendments to the Clery Act), which includes any 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: (i) The length of the relationship; (ii) The type of relationship; (iii) The frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.
- **Domestic violence**: (as defined in the VAWA amendments to the Clery Act), which includes any 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

North Carolina domestic or family violence laws 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 North Carolina.

- **Stalking:** (as defined in the VAWA amendments to the Clery Act), meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to - (A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress. For the purposes of this definition:
  - *Course of Conduct:* two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
  - *Reasonable person:* a reasonable person under similar circumstances and with similar identities to the victim.
  - *Substantial Emotional Distress:* significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling
  - *Examples of Conduct:* includes, but is not limited to, unwanted communication (in person, by phone, or by computer), unwelcome gifts or flowers, following a person, and watching or remaining in the physical presence of the other person.

Violations of conduct covered under Title IX would be addressed through [Title IX Grievance Procedures](#).

### **Prohibited Other Sexual Misconduct Not Covered under Title IX**

**Sexual harassment** that is not covered under Title IX is also prohibited. Sexually harassing activity may include, but not be limited to a severe, persistent, or pervasive pattern of unwelcome conduct.

Sexually harassing behaviors differ in type and severity and can range from verbal harassment to unwelcome physical contact. A wide range of behaviors may fall within the general definition of sexual harassment depending on the circumstances. A single, isolated incident of sexual harassment alone may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to create a hostile environment, particularly if the harassment is physical. The determination of whether an environment is hostile must be based on all the circumstances. In determining whether sex discrimination or sexual harassment/violence against a student or employee resulted in a sexually hostile environment, the College will consider the conduct in question from both a subjective and objective perspective.

Such conduct may include, but is not limited to, unwanted sexual flirtations, advances, or propositions; verbal abuse of a sexual nature; unwanted graphic verbal comments about an individual's body; the display in the workplace or educational environment of inappropriate and sexually suggestive objects, pictures, writing, language or drawings; or unwelcome touching or physical contact.

Sexual harassment may be blatant and intentional and involve an overt action, a threat, or a

reprisal, or may be subtle and indirect, with a coercive aspect that is unstated.

Sexual Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Sexual Harassment:

- May be committed by anyone, regardless of gender, age, position, or authority. While there is often a power differential between two persons, perhaps due to differences in age, social, educational, or employment relationships, harassment can occur in any context;
- May be committed by a stranger, an acquaintance, or someone with whom the reporting party has an intimate or sexual relationship;
- May be committed by or against an individual or may be a result of the actions of an organization or group; and
- May occur in the classroom, in the workplace, in residential settings, over electronic or social media (including the Internet, telephone, and text), or in any other setting.

Examples of conduct that may constitute sexual harassment as defined above may include, but are not limited to, a severe, persistent, or pervasive pattern of unwelcome conduct that includes one or more of the following:

- Physical conduct, including unwelcome touching, impeding, restraining, or blocking movements.
- Verbal conduct, including making or using derogatory comments, epithets, slurs, or humor. Includes using sexually degrading words to describe an individual or sending suggestive or obscene letters, notes, electronic communication. Includes the communication of offensive comments of a sexual nature.
- Visual conduct: Leering; making sexual gestures; displaying suggestive objects or pictures, cartoons, or posters in a public space or forum. Visual displays of suggestive, erotic, or degrading, sexually oriented images that are not pedagogically appropriate.
- Written conduct: letters, notes or electronic communications, including social media, containing comments, words, or images described above.

**Sexual Exploitation:** Taking sexual advantage of another person or of the sexuality of another person without consent or in a manner that extends the bounds of consensual activity for any non-legitimate purpose. Examples of sexual exploitation include, but are not limited to, the following: observing another individual's nudity or sexual activity or allowing another to observe nudity or sexual activity without the consent of all parties involved in a place where the individual being observed would have a reasonable expectation of privacy; recording, streaming, or photographing private sexual activity and/or a person's nudity, or distribution of such without the consent of all parties involved; prostituting another individual; and/or inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

**Complicity:** Complicity is any act that knowingly aids, abets, facilitates, promotes or encourages the commission of prohibited conduct by another person.

**Coercion or Intimidation:** Coercion is the use of unreasonable and persistent pressure to compel another individual to initiate or continue sexual activity against an individual's will.

Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail. Coercion may be emotional, intellectual, psychological, or moral. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. In evaluating coercion, the College will consider: (1) frequency of the application of pressure; (2) intensity of the pressure, (3) isolation of the person being pressured; and (4) duration of the pressure. Coercing an individual into engaging in sexual activity violates this policy in the same way as physically forcing someone into engaging in sexual activity.

Violations of Other Prohibited Sexual Misconduct (not covered under Title IX) will be addressed through the [Other Prohibited Sexual Misconduct Sexual Misconduct Grievance Procedures](#).

## **Title IX Grievance Procedures**

**Formal Complaint:** For the purposes of these Title IX Grievance Procedures, “formal complaint” means a document – including an electronic submission - filed by a Complainant with a signature or other indication that the Complainant is the person filing the formal complaint, or signed by a Title IX Coordinator, alleging sexual harassment against a Respondent about conduct within Meredith College’s education program or activity and requesting initiation of the procedures consistent with the College’s Title IX and Other Prohibited Sexual Misconduct policy to investigate the allegation of sexual harassment.

### **Title IX Informal Resolution Process**

A Complainant who wishes to file a complaint of sexual misconduct at Meredith College but who does not wish to pursue a formal grievance hearing may request a less formal proceeding, referred to as the informal resolution process.

Informal resolution is a voluntary process, available to the parties once a formal complaint has been filed. Informal resolution may never be offered to resolve allegations that an employee sexually harassed a student. At any time prior to agreeing to a resolution under such a process, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

Additionally, if an informal resolution process is offered, the institution must:

- Provide the parties a written notice disclosing the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, and any consequences resulting from participating in the informal resolution process; and
- Obtain the parties’ voluntary, written consent to the informal resolution process.

Generally, Meredith College will use mediation as the informal resolution process. In mediation, a Title IX Coordinator may arrange a meeting between the two parties to facilitate discussion of the complaint. Mediation is designed to encourage each person to be honest and direct with the

other and to accept personal responsibility where appropriate. Its goal is to facilitate the resolution of the incident to the satisfaction of both persons involved, and to reach an agreement that is binding on both parties. If the Complainant and the Respondent are satisfied with the outcome, the matter will be considered resolved. Any failure to comply with the terms of an informal resolution agreement may result in additional disciplinary action or a further allegation of sexual misconduct or harassment.

### **Formal Title IX Grievance Procedures**

The timeframe for the Title IX Grievance Procedures begins with the filing of a Formal Complaint. The Grievance Procedures will be concluded within a reasonably prompt manner, and no longer than ninety (90) business days after the filing of the Formal Complaint, provided that the Process may be extended for a good reason, including but not limited to, the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. The procedure for applying for extensions is described below.

To file a Formal Complaint, a Complainant must provide the Title IX Coordinator a written, signed complaint describing the facts alleged. Complainants are only able to file a Formal Complaint under this Policy if they are currently participating in, or attempting to participate in, the education programs or activities of Meredith College, including as an employee. For Complainants who do not meet this criteria, the College will utilize other existing campus policies, as appropriate.

If a Complainant does not wish to make a Formal Complaint, a Title IX Coordinator may determine a Formal Complaint is necessary. Meredith College will inform the Complainant of this decision in writing, and the Complainant need not participate in the process further but will receive all notices issued under this process.

Nothing in the Title IX Grievance Procedures prevents a Complainant from seeking the assistance of state or local law enforcement alongside the appropriate on-campus process.

A Complainant who files a Formal Complaint may elect, at any time, to address the matter through the College's Informal Resolution Process.

**Multi-Party Situations:** The College may consolidate Formal Complaints alleging covered sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of covered sexual harassment arise out of the same facts or circumstances.

**Mandatory Dismissal:** If any one of the above mentioned elements are not met, the Title IX Coordinator will notify the parties that the Formal Complaint is being dismissed for the purposes of the Title IX Grievance Procedures. Each party may appeal this dismissal using the procedure outlined in "Appeals," below.

**Discretionary Dismissal:** The Title IX Coordinator may dismiss a Formal Complaint brought under the Title IX Grievance Procedures, or any specific allegations raised within that Formal Complaint, at any time during the investigation or hearing, if:

- A Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint or any allegations raised in the Formal Complaint;
- The Respondent is no longer enrolled or employed by Meredith College; or,
- If specific circumstances prevent the College from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations within the Formal Complaint.

Any party may appeal a dismissal determination using the process set forth in “Appeals,” below.

**Notice of Dismissal:** Upon reaching a decision that the Formal Complaint will be dismissed, the institution will promptly send written notice of the dismissal of the Formal Complaint or any specific allegation within the Formal Complaint, and the reason for the dismissal, simultaneously to the parties through their Meredith College email accounts. It is the responsibility of parties to maintain and regularly check their email accounts.

**Notice of Removal:** Upon dismissal for the purposes of Title IX, Meredith College retains discretion to utilize other campus policies (i.e. Sexual Misconduct Policy, Honor Code, etc.) to determine if a violation of that policy has occurred. If so, Meredith College will promptly send written notice of the dismissal of the Formal Complaint under the Title IX Grievance Policy process and removal of the allegations to the conduct process.

**Notice of Allegations:** The Title IX Coordinator will draft and provide the Notice of Allegations to the parties to the allegations of sexual harassment. Such notice will occur as soon as practicable, but no more than five (5) business days, after the institution receives a Formal Complaint of the allegations, if there are no extenuating circumstances. The parties will be notified by their Meredith College email accounts if they are a student or employee, and by other reasonable means if they are neither. The institution will provide sufficient time for the parties to review the Notice of Allegations and prepare a response before any initial interview.

The Title IX Coordinator or designee may determine that the Formal Complaint must be dismissed on the mandatory grounds identified above, and will issue a Notice of Dismissal. If such a determination is made, any party to the allegations of sexual harassment identified in the Formal Complaint will receive the Notice of Dismissal in conjunction with, or in separate correspondence after, the Notice of Allegations.

**Contents of Notice:** The Notice of Allegations will include the following:

- Notice of the College’s Title IX Grievance Procedures (including any informal resolution process that is available) and a hyperlink to a copy of the process.
- Notice of the allegations potentially constituting covered sexual harassment, and sufficient details known at the time the Notice is issued, such as the identities of the parties involved in the incident, if known, including the Complainant; the conduct allegedly constituting covered sexual harassment; and the date and location of the alleged incident, if known.
- A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.

- A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
- A statement that before the conclusion of the investigation, the parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the institution does not intend to rely in reaching a determination regarding responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a party or other source.

It is a violation of this policy to bring a knowingly false complaint. However, failure to prove a claim of sexual misconduct does not alone constitute proof of a false and /or malicious accusation. Individuals who make frivolous or false reports shall not be deemed to be acting in good faith. Violations of false complaints will be addressed through student or employee disciplinary procedures.

**Ongoing Notice:** If, in the course of an investigation, the College decides to investigate allegations about the Complainant or Respondent that are not included in the Notice of Allegations and are otherwise covered "sexual harassment" falling within the definition under "Other Sexual Misconduct", the institution will notify the parties whose identities are known of the additional allegations by their Meredith College email accounts or other reasonable means.

The parties will be provided sufficient time to review the additional allegations to prepare a response before any initial interview regarding those additional charges.

**Advisor of Choice and Participation of Advisor of Choice:** Meredith College will provide the parties equal access to advisors and support persons; any restrictions on advisor participation will be applied equally.

Meredith College requires students to participate in the process directly and not through an advocate or representative. Students participating as Complainant or Respondent in this process may be accompanied by an Advisor of Choice to any meeting or hearing to which they are required or are eligible to attend. The Advisor of Choice is not an advocate. Except where explicitly stated by this Policy, as consistent with the requirements of the U.S. Department of Education, Advisors of Choice shall not participate directly in the process according to standard policy and practice of the College.

Meredith College will not intentionally schedule meetings or hearings on dates where the Advisors of Choice for all parties are not available, provided that the Advisors act reasonably in providing available dates and work collegially to find dates and times that meet all schedules.

The College's obligations to investigate and adjudicate in a prompt timeframe under Title IX and other college policies apply to matters governed under this process, and the College cannot agree to extensive delays solely to accommodate the schedule of an Advisor of Choice. The determination of what is reasonable shall be made by the Title IX Coordinator or designee. The College will not be obligated to delay a meeting or hearing under this process more than five (5) business days due to the unavailability of an Advisor of Choice, and may offer the party the opportunity to obtain a different Advisor of Choice or utilize one provided by the College

**Notice of Meetings and Interviews:** Meredith College will provide, to a party whose participation is invited or expected, written notice via Meredith College email or by other reasonable means of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with a party, with sufficient time for the party to prepare to participate.

**Delays/Extensions:** Each party may request a one-time delay in the grievance process of up to five (5) business days for good cause (granted or denied in the sole judgment of the Title IX Coordinator or designee) provided that the requestor provides reasonable notice and the delay does not overly inconvenience other parties. Requests for delays must be submitted in writing to the Title IX Coordinator.

For example, a request to take a five business day pause made an hour before a hearing for which multiple parties and their advisors have traveled to and prepared for shall generally not be granted, while a request for a five-day pause in the middle of investigation interviews to allow a party to obtain certain documentary evidence shall generally be granted.

The Title IX Coordinator or designee shall have sole judgment to grant further pauses in the Process.

**General Rules of Investigations:** The Title IX Coordinator and/or an investigator designated by the Title IX Coordinator will perform an investigation, under a reasonably prompt timeframe, of the conduct alleged to constitute covered sexual harassment after issuing the Notice of Allegations.

Meredith College, and not the parties, has the burden of proof and the burden of gathering evidence, i.e. the responsibility of showing a violation has occurred. This burden does not rest with either party, and either party may decide not to share their account of what occurred or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from the College and does not indicate responsibility.

Meredith College cannot access, consider, or disclose medical records without a waiver from the party (or parent/guardian of minor, if applicable) to whom the records belong or of whom the records include information.

The College will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other evidence that tends to prove and disprove the allegations as described below.

**Inspection and Review of Evidence:** Prior to the completion of the investigation, the parties will have an equal opportunity to inspect and review the evidence obtained through the investigation. The purpose of the inspection and review process is to allow each party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation.

Evidence that will be available for inspection and review by the parties will be any evidence that is directly related to the allegations raised in the Formal Complaint. It will include any:

- Evidence that is relevant, even if that evidence does not end up being relied upon by the

- institution in making a determination regarding responsibility;
- Evidence that tends to prove or disprove the allegations, that is directly related to the allegations, whether obtained from a party or other source; and
- All parties must submit any evidence they would like the investigator to consider prior to when the parties' time to inspect and review evidence begins.

Evidence will be made available for each party and each party's advisor, to inspect and review through an electronic format or a hard copy. The College is not under an obligation to use any specific process or technology to provide the evidence and shall have the sole discretion in terms of determining format and any restrictions or limitations on access.

The parties will have ten (10) business days to inspect and review the evidence and submit a written response by email to the investigator. The investigator will consider the parties' written responses before completing the Investigative Report. Parties may request a reasonable extension based on extenuating circumstances.

The College will provide copies of the parties' written responses to the Investigative Report to all parties and their advisors, if any.

The College may provide the parties five (5) business days after the initial inspection and review of evidence, and before the investigator completes their Investigative Report, to provide additional evidence in response to their inspection and review of the evidence, and then provide the parties five (5) business days to inspect, review, and respond to the party's additional evidence through a written response to the investigator, after which the investigator will not be required to accept a late submission. Those written responses may be disclosed to the parties.

Any evidence subject to inspection and review will be available at any hearing, including for purposes of cross-examination.

The parties and their advisors must sign an agreement not to disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the Title IX grievance process. The parties and their advisors agree not to photograph or otherwise copy the evidence.

**Inclusion of Evidence Not Directly Related to the Allegations:** Evidence obtained in the investigation that is determined in the reasoned judgment of the investigator not to be directly related to the allegations in the Formal Complaint will not be disclosed, or may be appropriately redacted before the parties' inspection to avoid disclosure of personally identifiable information of a student. Any evidence obtained in the investigation that is kept from disclosure or appropriately redacted will be documented in a "privilege log" that may be reviewed by the parties and their advisors, if any.

**Investigative Report:** The Title IX Coordinators, and/or an investigator designated by the Title IX Coordinators, will create an Investigative Report that includes: details of the matter; summary of the relevant evidence; outcome of the investigation; and next steps. The Report will be provided to the parties at least ten (10) business days' prior to the hearing in an electronic format or a hard copy for each party's review and written response.

The Investigative Report is not intended to catalog all evidence obtained by the investigator, but only to provide a fair summary of relevant evidence (tending to prove or disprove the allegations).

The investigator may redact irrelevant information from the Investigative Report when that information is contained in documents or evidence that is/are otherwise relevant.

**General Rules of Hearings:** Meredith College will not issue a disciplinary sanction arising from an allegation of covered sexual harassment without holding a live hearing unless otherwise resolved through an informal resolution process.

The live hearing may be conducted with all parties physically present in the same geographic location designated by the College prior to the hearing or, at the College's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually through an electronic meeting platform of the College's choice. This technology will enable participants simultaneously to see and hear each other. At its discretion, the College may delay or adjourn a hearing based on technological errors not within a party's control.

All proceedings will be recorded through audio recording. That recording will be made available to the parties for inspection and review. Only the College may record the proceedings. Unauthorized recordings would not be considered in the appeal process.

Prior to obtaining access to any evidence, the parties and their advisors must sign an agreement not to disseminate any of the testimony heard or evidence obtained in the hearing or use such testimony or evidence for any purpose unrelated to the Title IX Grievance Process. Once signed, this Agreement may not be withdrawn.

**Continuances:** Meredith College may determine that multiple sessions or a continuance (i.e. a pause on the continuation of the hearing until a later date or time) is needed to complete a hearing. If so, the College will notify all participants and endeavor to accommodate all participants' schedules and complete the hearing as promptly as practicable.

**Participants in the Live Hearing:** Live hearings are not public, and the only individuals permitted to participate in the hearing are as follows:

- Complainant and Respondent (The Parties)
  - The parties cannot waive the right to a live hearing.
  - The College may still proceed with the live hearing in the absence of a party, and may reach a determination of responsibility in their absence, including through any evidence gathered that does not constitute a "statement" by that party.
    - For example, an oral or written statement constituting part or all of the sexual harassment itself is not a "prior statement" that must be excluded if the maker of the statement does not submit to cross-examination about that statement. In other words, a prior statement would not include a document, audio recording, audiovisual reading, and digital media, including but not limited to text messages, emails, and social media postings, that constitute the conduct alleged to have been the act of sexual harassment under the formal complaint.

- The College will not threaten, coerce, intimidate or discriminate against the party in an attempt to secure the party's participation.
- If a party does not submit to cross-examination, the Panel cannot rely on any prior statements made by that party in reaching a determination regarding responsibility, but may reach a determination regarding responsibility based on evidence that does not constitute a "statement" by that party.
- The Panel cannot draw an inference about the determination regarding responsibility based solely on a party's absence from the live hearing or refusal to answer cross examination or other questions.
- The parties shall be subject to the College's Rules of Decorum.
- Title IX Grievance Panel
  - The Title IX Coordinator will assemble the Title IX Grievance Hearing Panel (the "Panel") from the College Grievance Hearing Board pool of available members. The College Grievance Hearing Board pool includes members of Faculty Council, the Staff Affairs Committee, undergraduate students who serve as student representatives on the Honor Council, and one graduate student from each school with graduate programs. The Title IX Coordinator will select three (3) members of the Grievance Hearing Board pool and one alternate to serve on the Panel. The Panel shall include individuals from the segments of the campus community represented by the concerned parties (student, faculty, and/or staff) whenever possible. For example, if the complaint is from a student against a faculty member, the Panel shall include students and faculty or staff if possible. If the hearing involves only faculty and staff members as Complainant and Respondent, the Panel will consist only of faculty and staff if possible. The Complainant and Respondent will be given the list of panel members 5 business days in advance of the hearing. If either party objects to a panelist because of conflict of interest, the Title IX Coordinator will consider the grounds for the conflict of interest and may select another panel member. The Complainant and Respondent may not contact panel members or discuss the case with them prior to the hearing.
  - No member of the hearing body will also have served as the Title IX Coordinator, Title IX investigator, or advisor to any party in the case, nor may any member of the hearing body serve on the appeals body in the case.
  - No member of the hearing body will have a conflict of interest or bias in favor of or against Complainants or Respondents generally, or in favor or against the parties to the particular case.
  - The Panel will be trained on topics including how to serve impartially, issues of relevance, including how to apply the rape shield protections provided for Complainants, and any technology to be used at the hearing.
  - The parties will have an opportunity to raise any objections regarding a decision-maker's actual or perceived conflicts of interest or bias at the commencement of the live hearing.
- Hearing Officer
  - In addition to the Hearing Panel, a Hearing Officer will be appointed to oversee the hearing proceedings.
- Advisor of Choice
  - The parties have the right to select an advisor of their choice, who may be, but

- does not have to be, an attorney.
- The advisor of choice may accompany the parties to any meeting or hearing they are permitted to attend, but may not speak for the party, except for the purpose of cross-examination.
- The parties are not permitted to conduct cross-examination; it must be conducted by the advisor. As a result, if a party does not select an advisor, the College will select an advisor to serve in this role for the limited purpose of conducting the cross-examination at no fee or charge to the party.
- The advisor is not prohibited from having a conflict of interest or bias in favor of or against Complainants or Respondents generally, or in favor or against the parties to the particular case.
- The advisor is not prohibited from being a witness in the matter.
- If a party does not attend the live hearing, the party's advisor may appear and conduct cross-examination on their behalf.
- If neither a party nor their advisor appear at the hearing, the College will provide an advisor to appear on behalf of the non-appearing party.
- Advisors shall be subject to the College's Rules of Decorum, and may be removed upon violation of those rules.
- **Witnesses**
  - Witnesses cannot be compelled to participate in the live hearing, and have the right not to participate in the hearing free from retaliation.
  - If a witness does not submit to cross-examination, as described below, the decision-maker cannot rely on any statements made by that witness in reaching a determination regarding responsibility, including any statement relayed by the absent witness to a witness or party who testifies at the live hearing.
  - Witnesses shall be subject to the College's Rules of Decorum.

**Hearing Procedures:** For all live hearings conducted under this Title IX Grievance Process, the procedure will be as follows:

- Hearing officer will open and establish rules and expectations for the hearing;
- The Parties will each be given the opportunity to provide opening statements;
- Members of the Title IX Grievance Hearing Panel will ask questions of the Parties and Witnesses;
- Parties will be given the opportunity for live cross-examination after panel members conduct its initial round of questioning; During the Parties' cross-examination, panel members will have the opportunity to pause cross-examination at any time for the purposes of asking panel members' own follow up questions; and any time necessary in order to enforce the established rules of decorum.
- Should a Party or the Party's Advisor choose not to cross-examine a Party or Witness, the Party shall affirmatively waive cross-examination through a written or oral statement to the Hearing Officer. A Party's waiver of cross-examination does not eliminate the ability of the panel members to use statements made by the Party.

**Relevant Evidence and Questions:** Relevant evidence and questions refer to any questions and evidence that tends to make an allegation of sexual harassment more or less likely to be true. Relevant evidence and questions do not include the following types of evidence and questions,

which are deemed irrelevant at all stages of the Title IX Grievance Process:

- Evidence and questions about the Complainant’s sexual predisposition or prior sexual behavior unless:
  - They are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or
  - They concern specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to prove consent.
- Evidence and questions that constitute, or seek disclosure of, information protected under a legally-recognized privilege.
- Any party’s medical, psychological, and similar records unless the party has given voluntary, written consent.

**Live Cross-Examination Procedure:** Each party’s advisor will conduct live cross-examination of the other party or parties and witnesses. During this live-cross examination the advisor will ask the other party or parties and witnesses relevant questions and follow-up questions, including those challenging credibility directly, orally, and in real time.

Before any cross-examination question is answered, the Hearing Officer will determine if the question is relevant. The Hearing Officer may pause the hearing if the question is deemed not relevant. Cross-examination questions that are duplicative of those already asked, including by the panel members may be deemed irrelevant if they have been asked and answered.

**Review of Recording:** The audio recording of the hearing will be available for review by the parties within 48 hours unless there are any extenuating circumstances. The recording of the hearing will not be provided to parties or advisors of choice.

**Standard of Proof:** Meredith College uses the preponderance of the evidence standard for investigations and determinations regarding responsibility of formal complaints covered under this Policy. This means that the investigation and hearing determines whether it is more likely than not that a violation of the Policy occurred.

**General Considerations for Evaluating Testimony and Evidence:** While the opportunity for cross-examination is required in all Title IX hearings, determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the panel members.

Decision-makers shall not draw inferences regarding a witness or party’s credibility based on the party or witness status as a Complainant, Respondent, or witness, nor shall it base its judgments in stereotypes about how a party or witness would or should act under the circumstances.

Generally, credibility judgments should rest on the demeanor of the party or witness, the plausibility of their testimony, the consistency of their testimony, and its reliability in light of corroborating or conflicting testimony or evidence.

Still, credibility judgments should not rest on whether a party or witness testimony is non-linear or incomplete, or if the party or witness is displaying stress or anxiety.

Decision makers will afford the highest weight relative to other testimony to first-hand testimony by parties and witnesses regarding their own memory of specific facts that occurred. Evidence tending to prove and disprove the allegations will be weighed in equal fashion.

Except where specifically barred by Title IX, witness testimony regarding third-party knowledge of the facts at issue will be allowed, but will generally be accorded lower weight than testimony regarding direct knowledge of specific facts that occurred.

Title IX requires Meredith College to allow parties to call “expert witnesses” for direct and cross examination under this policy. While the expert witness will be allowed to testify and be subject to cross examination, the panel members will be instructed to afford lower weight to non-factual testimony of the expert relative to fact witnesses, and any expert testimony that is not directed to the specific facts that occurred in the case will be afforded lower weight relative to fact witnesses, regardless of whether the expert witness testimony is the subject of cross examination and regardless of whether all parties present experts as witnesses.

Meredith College must allow parties to call character witnesses to testify. While the character witnesses will be allowed to testify and be crossed-examined as required by Title IX, the decision-maker will be instructed to afford very low weight to any non-factual character testimony of any witness.

Meredith College must admit and allow testimony regarding polygraph tests (“lie detector tests”) and other procedures that are outside of standard use in academic and non-academic conduct processes. While the processes and testimony about them will be allowed to testify and be crossed-examined as required by Title IX, the decision-maker will be instructed to afford lower weight to such processes relative to the testimony of fact witnesses.

Where a witness or party’s conduct or statements demonstrate that the party or witness is engaging in retaliatory conduct, including but not limited to witness tampering and intimidation, the hearing panel may draw an adverse inference as to that party or witness credibility.

**Components of the Determination Regarding Responsibility:** The written Determination Regarding Responsibility will be issued simultaneously to all parties through their Meredith College email account, or other reasonable means as necessary. The Determination will include:

1. Identification of the allegations potentially constituting covered sexual harassment;
2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. Findings of fact supporting the determination;
4. Conclusions regarding which section of the College’s Title IX or other policies, if any, the Respondent has or has not violated.
5. For each allegation:
  - a. A statement of, and rationale for, a determination regarding responsibility;
  - b. A statement of, and rationale for, any disciplinary sanctions the College imposes ([range of sanctions](#) included in General Information) on the Respondent; and

6. A statement of, and rationale for, whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the recipient to the Complainant; and
7. The recipient's procedures and the permitted reasons for the Complainant and Respondent to appeal (described below in "Appeal").

**Timeline of Determination Regarding Responsibility:** If there are no extenuating circumstances, the determination regarding responsibility will be issued by the College within 10 (ten) business days of the completion of the hearing.

**Finality:** The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed consistent with the procedures and timeline outlined in "Appeals" below, or if an appeal is not filed, the date on which the opportunity to appeal expires.

**Appeals:** Each party may appeal (1) the dismissal of a formal complaint or any included allegations and/or (2) a determination regarding responsibility. To appeal, a party must submit their written appeal within 5 (five) business days of being notified of the decision, indicating the grounds for the appeal.

The limited grounds for appeal available are as follows:

- Procedural irregularity that affected the outcome of the matter (i.e. a failure to follow the College's own procedures);
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- The Title IX Coordinator, investigator, or panel members had a conflict of interest or bias for or against an individual party, or for or against Complainants or Respondents in general, that affected the outcome of the matter.

The submission of appeal pauses any sanctions while the appeal is being considered. Supportive measures and remote learning opportunities remain available while the appeal is being considered.

If a party appeals, the institution will as soon as practicable notify the other party in writing of the appeal, including the date filed and the applicable procedures, however the time for appeal shall be offered equitably to all parties and shall not be extended for any party solely because the other party filed an appeal. The parties will have an opportunity to submit a written statement in response to the appeal.

Appeals should be submitted in electronic form. Appeals will be decided by the Title IX Appeals Panel who will be free of conflict of interest and bias, and will not serve as investigator, Title IX Coordinator, or hearing panel member in the same matter.

Outcome of appeal will be provided in writing simultaneously to both parties, and include rationale for the decision.

## **Other Sexual Misconduct Grievance Procedures**

As sexual misconduct is considered by the College to be a serious form of sexual harassment and a violation of this policy, all formal complaints of sexual misconduct will be investigated by a Title IX Coordinator, or designee (the investigator). The investigator may also choose to initiate an investigation based on other reported information or to assign the investigation to another impartial, qualified investigator.

If a decision is made to initiate an investigation, relevant information will be gathered and reviewed, to include:

- Documents, statements and/or interviews of the Complainant, the Respondent and any witnesses whom the investigator determines may have relevant information;
- Campus and community law enforcement investigation documents;
- Student and employee College files; and
- Other documentations, as identified relevant to the report.

The Respondent and the Complainant will each have access to provide information to the investigator and will be provided full information about the allegation.

The investigation process will be conducted in a prompt manner, usually consisting of no longer than thirty (30) business days, unless extenuating circumstances necessitate a longer time frame. If an investigation cannot be completed in that time, the investigator will notify the Complainant and Respondent in writing and maintain communication until the investigation is complete.

At the conclusion of the investigation, the Title IX Coordinator will determine whether or not the College will bring a formal complaint under this Policy or other College policy and will notify both the Complainant and the Respondent of such.

If a formal complaint is warranted, the matter will be handled in accordance with the grievance procedures outlined in this policy. This can be initiated by the Complainant or the College when there is evidence of a possible threat to the health and/or safety of the campus community. While the College may determine it necessary to initiate such action to protect the campus community or remedy alleged misconduct, the College recognizes that the Complainant may elect not to participate in the process.

At any time a serious, imminent and continuing threat exists, Campus Police will be notified and an MC Alert message issued on campus to provide timely notification and warning to the campus community. Any such alert required by the Clery Act will not include identifiable information about the Complainant.

**Informal Resolution:** A Complainant who wishes to file a complaint of sexual misconduct at Meredith College but who does not wish to pursue a grievance hearing may request a less formal proceeding, referred to as the informal resolution process. The informal resolution process is intended to resolve complaints quickly, efficiently, and to the mutual satisfaction of both parties. If the Respondent accepts responsibility and the sanction proposed by the College, the matter

will be considered resolved. If the Respondent accepts responsibility but not the proposed sanction, a truncated sanctions hearing may be held.

One form of informal resolution process utilized by the College is mediation. In mediation, a Title IX Coordinator will arrange a meeting between the two parties to facilitate discussion of the complaint. Mediation is designed to encourage each person to be honest and direct with the other and to accept personal responsibility where appropriate. Its goal is to facilitate the resolution of the incident to the satisfaction of both persons involved, and to reach an agreement that is binding on both parties. If the Complainant and the Respondent are satisfied with the outcome, the matter will be considered resolved. Any failure to comply with the terms of an informal resolution agreement may result in additional disciplinary action or a further allegation of sexual misconduct or harassment. Meredith College has determined that allegations of sexual assault are not appropriate for informal resolution and may not be mediated.

**Formal Grievance Procedure:** The Complainant has the option of initiating the formal grievance process for sexual misconduct not covered under Title IX, which utilizes the College Grievance Hearing Panel. Following an investigation, the College may also choose to initiate the formal grievance process when there is evidence of a possible threat to the health and/or safety of the campus community. The Complainant and the Respondent will be granted the same rights, opportunities and access to an equitable and fair process. Such rights include:

- Equal opportunity to present relevant witnesses and other evidence.
- Equal opportunity to have an advisor at any stage of the disciplinary proceedings. A student may select an advisor from the current College community including a student, faculty or staff member who is currently employed or enrolled at Meredith College and who is not a witness in the matter. In matters alleging sexual misconduct, students may have an advisor of their choosing and are not restricted to an advisor from within the College community (current students, faculty or staff). The role of an advisor is to assist and support the advisee through the process. Advisors may not actively participate in the hearings and may not address any other participant or the hearing panel. The advisor's role is limited to conferring with the advisee during the hearing, in writing or quietly.
- Receive written notification of the outcomes of both the hearing panel's decision and any appeal.
- The right to appeal the outcome of the hearing.

Other than the parties, their advisors, hearing panel members, a Title IX Coordinator or designee, and witnesses when testifying, others are not permitted to be present in the hearing room, but may be seated outside the hearing room.

**Sexual Misconduct Grievance Hearing Panel:** The Title IX Coordinator will assemble the Sexual Misconduct Grievance Hearing Panel (the "Panel") from the College Grievance Hearing Board pool of available members to hear violations of sexual misconduct not covered by Title IX. The College Grievance Hearing Board pool includes members of Faculty Council, the Staff Affairs Committee, undergraduate students who serve as student representatives on the Honor Council, and one graduate student from each school with graduate programs. The Title IX Coordinator will select three (3) members of the Grievance Hearing Board pool and one alternate to serve on the Panel.

The Panel shall include individuals from the segments of the campus community represented by the concerned parties (student, faculty, and/or staff) whenever possible. For example, if the complaint is from a student against a faculty member, the Panel shall include students and faculty or staff if possible. If the hearing involves only faculty and staff members as Complainant and Respondent, the Panel will consist only of faculty and staff if possible. The Complainant and Respondent will be given the list of panel members five business days in advance of the hearing. If either party objects to a panelist because of conflict of interest, the Title IX Coordinator will consider the grounds for the conflict of interest and may select another panel member. The chair will be designated by the Title IX Coordinator. The Complainant and Respondent may not contact panel members or discuss the case with them prior to the hearing.

A Title IX Coordinator will be available to provide technical assistance on procedural and policy matters. The Grievance Hearing Panel will receive training on grievance procedures, sexual misconduct information/sensitivity and Panel member responsibilities prior to the hearing date and are not eligible to serve unless they attend the training.

**Sexual Misconduct Grievance Panel Review Process:** The hearing process includes:

- The Panel will review the complaint and all information provided, carefully examine any policies involved, and may receive statements from both the Complainant and the Respondent or call witnesses to evaluate the complaint.
- Both parties should submit lists of potential witnesses to the Title IX Coordinator five business days prior to the hearing.
- Evidence and a list of witnesses who will be called will be distributed to both parties in advance of the hearing. Parties are not permitted to photograph, copy or disseminate the evidence inspected or reviewed during an investigation or hearing process.
- The Complainant and Respondent may also submit written statements to the Panel in advance of the hearing and both parties shall have a maximum of ten minutes to present relevant facts during oral opening statements at the hearing.
- Both parties may propose questions of witnesses to be considered to be asked through the Panel. The Complainant and the Respondent will not be permitted to ask questions directly of each other; questions submitted to the Title IX Coordinator will be reviewed for relevance related to the hearing and those relevant to the hearing will be communicated to the Chair by the Title IX Coordinator.
- The rules of evidence do not apply.
- The Complainant and Respondent may each elect to be present in the hearing room during the proceedings. If either party requests not to be physically present during some or all of the proceedings, arrangements will be made by the Title IX Coordinator to allow for both parties to participate in the hearing while not being required to physically be in the same hearing room.
- Issues regarding admission of evidence or testimony, including relevance and reliability, will be determined by the Chair in consultation with a Title IX Coordinator. The Complainant's sexual history with anyone other than the Respondent may not be discussed during the hearing. The parties and all witnesses are expected to provide honest information and statements. The Chair shall determine in its discretion the management of the hearing, the relevance of information. Behavior that disrupts the

hearing process will not be permitted and the Chair and the Title IX Coordinator will address parties, witnesses or advisors as necessary.

- The Complainant and Respondent, along with designated advisors, may be present during the hearing with the exception of the deliberation portion of the hearing.

**Standard of Proof:** Meredith College uses the preponderance of the evidence standard for investigations and determinations regarding responsibility of formal complaints covered under this Policy. This means that the investigation and hearing determines whether it is more likely than not that a violation of the Policy occurred.

**Final Decision:** The Chair will prepare a written report within five (5) business days of the final decision with findings to be submitted to the Title IX Coordinator. If the Respondent is an employee, the Title IX Coordinator will consult with the appropriate supervisor(s), as necessary, to impose appropriate disciplinary and corrective sanctions.

The Title IX Coordinator will inform the Complainant and Respondent of the findings and sanctions within 5 business days of the receipt of the Chair's report. Notification will be made in writing and may be delivered by one or more of the following methods: in-person; mailed to the local or permanent address as indicated in official College records; or emailed to the parties' College-issued email account.

**Procedures for Appeal:** The Complainant or the Respondent may appeal the Panel's decision, subject to the scope of a review and confined to these questions:

1. Whether there is evidence in the record to support the decision and/or sanctions based on the preponderance of the evidence standard;
2. Whether the hearing was free of substantial error prejudicial to the appellant under the prescribed procedures; and/or
3. Whether the sanction imposed is appropriate to the violation.

Appeals must be submitted in writing to the Title IX Coordinator within five (5) business days of receipt of Panel's decision.

Appeals of the College Grievance Hearing Panel decision shall be heard by the appropriate Vice President (or President when the appellant is an employee who reports directly to the President). The Vice President for College Programs will hear the appeal if the Respondent and Complainant included only students. If the hearing included both students and faculty or staff members, the appeal shall be heard jointly by the Vice President for College Programs and the Vice President for the division in which the faculty or staff member is employed. Decisions will be made within ten (10) business days of receipt of the appeal. In the event of extenuating circumstances that prevent a decision to be made within this timeframe, both parties will be notified in writing of the anticipated date of the decision.

In considering the appeal, the reviewing Vice President shall consider only what is included in the hearing records; no new evidence may be permitted. The Vice President will send a written notification of the decision to both the Complainant and the Respondent within 10 business days of the receipt of the appeal and the decision is final.

## **Other Information**

**Education and Training Programs:** The College is committed to promoting awareness and increasing the prevention of conduct prohibited under this policy through education and training programs. The Title IX Coordinators maintain information about educational and training programs for students, faculty and staff. Programs for students include an overview of this policy as well as key terms such as prohibited conduct under this policy, consent, positive and safe ways for bystanders to intervene, and available resources on and off campus. The College provides educational materials through a variety of outlets including online training, emails, new student orientation, annual updates/training for employees, and new employee orientation.

Title IX Coordinators, advisors, hearing panelists and those considering appeals receive training through the Student Conduct Institute at the State University of New York (<https://system.suny.edu/sci/>). SCI trains staff at institutions of higher education on how to fairly and equitably investigate and adjudicate conduct violations and disclosures.

**Review of Policy:** The College's Title IX and Other Prohibited Sexual Misconduct Policy is reviewed annually. For questions about Meredith College's Title IX policy, grievance procedures and campus and community resources, contact either of the Title IX Coordinators and also visit Meredith College's Title IX web page at [www.meredith.edu/title-ix](http://www.meredith.edu/title-ix)

*August 14, 2020*

*Updated*