

**POLICY ON SEXUAL MISCONDUCT
(INCLUDING SEXUAL ASSAULT, DOMESTIC AND DATING VIOLENCE, AND STALKING)**

TITLE IX STATEMENT ON NON-DISCRIMINATION

Title IX of the Education Amendments of 1972 prohibits discrimination based on sex (including sexual harassment and sexual violence) in educational programs and activities that receive federal financial assistance. Title IX also prohibits retaliation against individuals who file a complaint of sex-based harassment/discrimination or assist in the filing, investigation, or resolution of such complaints. To ensure compliance with Title IX and other federal and state civil rights laws, Ursuline College has developed policies and procedures that prohibit all forms of sex-based discrimination and/or retaliation. Accordingly, Ursuline College does not tolerate unlawful discrimination and makes every effort to maintain a work and academic environment free from all forms of sexual misconduct, including sexual assault, domestic and dating violence, and stalking. The College responds to reports/complaints of sexual misconduct with measures designed to immediately stop and eliminate the prohibited conduct, prevent the recurrence of the prohibited conduct, and remediate any adverse effects of such conduct on campus or in College-related programs or activities. Thus, all forms of prohibited conduct under this policy are considered serious offenses, and violations will result in discipline, up to and including possible suspension, expulsion, dismissal, termination, or removal and exclusion from the College.

SCOPE OF POLICY

This policy applies to all members of the Ursuline College community, including, but not limited to, Ursuline students, faculty, staff, alumnae/alumni, third-party vendors, contractors, guests, and all other visitors to the Ursuline College campus or any other property owned or controlled by the College. This policy also applies to all acts of Prohibited Conduct (as defined below) committed by or against any member of the Ursuline College community (as defined above) if:

- The Prohibited Conduct occurs on property owned or controlled by Ursuline College or on property immediately adjacent and contiguous to property owned by Ursuline College; or
- The Prohibited Conduct is directly related to or occurs in the context of College employment or an education program or activity of the College, including, but not limited to: College-sponsored research, study abroad, work study, internship/externship programs, independent study, on-line courses, volunteer activities, work-related travel, training, attendance at seminars or conferences, participation in athletics, student organizations, or any other extra-curricular activity; or
- The Prohibited Conduct is directly related to or occurs while using property or resources owned, controlled, or provided by Ursuline College, including, but not limited to: College-owned vehicles, laptops, mobile devices, computer systems and networks, email accounts, telephone and voice mail systems; or
- The Prohibited Conduct has continuing adverse effects on a member of the Ursuline College community (as defined above) as it relates to an education program or activity of the College or College employment.

Additionally, an attempt to commit an act prohibited by this policy, as well as assisting or willfully encouraging any such act, is also considered a violation of this policy.

Ursuline College also administers and enforces policies and procedures that prohibit other forms of harassment, discrimination, and retaliation. *See* the [Harassment and Discrimination Policy](#), which is applicable to all members of the Ursuline College community. In the event of any conflict or inconsistency between the provisions and requirements of this Policy on Sexual Misconduct and any other Ursuline College policy regulating the conduct of any member of the Ursuline College community or setting forth procedures governing the suspension, expulsion, dismissal, termination, or removal and exclusion from Ursuline College

property of any member of the Ursuline College community, the provisions and requirements of the most current version of this Policy shall prevail and govern. Where prohibited conduct violates both this Policy on Sexual Misconduct and any other Ursuline College policy regulating the conduct of any member of the Ursuline College community, the College's response will be governed by the provisions and procedures outlined in the most current version of this Policy.

Please note that religiously sponsored organizations, such as Ursuline College, are exempt from certain aspects of Title IX of the Education Amendments Act, Title VII of the Civil Rights Act, the Americans with Disabilities Act, and other federal, state, and local laws. Nothing in this policy should be read or interpreted as a waiver of the College's exemptions under these or other federal, state or local laws.

DEFINITIONS OF PROHIBITED CONDUCT

The following acts of Sexual Misconduct are prohibited under this policy:

Sexual Assault – A sexual assault occurs when any of the following crimes are committed: rape, sexual battery, unlawful sexual conduct with a minor, sexual imposition, or gross sexual imposition. As used herein, the term “sexual conduct” means vaginal intercourse between a male and female; anal intercourse, fellatio and cunnilingus between persons regardless of sex; and the insertion of any body part, instrument, apparatus or other object into the vaginal or anal opening of another, regardless of how slight the penetration may be and if done without privilege or consent to do so. The term “sexual contact” means any touching of an erogenous zone of another – including without limitation the thigh, genitals, buttock, pubic region, or breast of a female – for the purpose of sexually arousing or gratifying either person.

1. **Rape:** Engaging in sexual conduct with another when the offender purposely compels the other person to submit by force or threat of force or engaging in sexual conduct with another who is not the spouse of the offender or who is the spouse of the offender but is living separate and apart from the offender, when any of the following applies:
 - a. the offender substantially impairs the other person's judgment or control by administering any drug, intoxicant or controlled substance to the other person surreptitiously or by force, threat of force or deception for the purpose of preventing resistance;
 - b. the other person is less than thirteen years of age, whether or not the offender knows the age of the other person; or
 - c. the other person's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age, and the offender knows or has reasonable cause to believe that the other person's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age.
2. **Sexual Battery:** Engaging in sexual conduct with another, not the spouse of the offender, when any of the following apply:
 - a. the offender knowingly coerces the other person to submit by any means that would prevent resistance by a person of ordinary resolution;
 - b. the offender knows that the other person's ability to appraise the nature of or control the other person's own conduct is substantially impaired;
 - c. the offender knows that the other person submits because the other person is unaware that the act is being committed;
 - d. the offender knows that the other person submits because the other person mistakenly identifies the offender as the other person's spouse;

- e. the offender is the other person's natural or adoptive parent, stepparent, guardian, custodian or person in loco parentis of the other person;
 - f. the other person is in custody of law or a patient in a hospital or other institution, and the offender has supervisory or disciplinary authority over the other person;
 - g. the offender is a teacher, administrator, coach or other person in authority employed by or serving in a school for which the state board of education prescribes minimum standards, the other person is enrolled in or attends that school, and the offender is not enrolled in and does not attend that school;
 - h. the other person is a minor, the offender is a teacher, administrator, coach or other person in authority employed by or serving in an institution of higher education, and the other person is enrolled in or attends that institution;
 - i. the other person is a minor, and the offender is the other person's athletic or other type of coach, is the other person's instructor, is the leader of a scouting troop of which the other person is a member or is a person with temporary or occasional disciplinary control over the other person;
 - j. the offender is a mental health professional, the other person is a mental health client or patient of the offender, and the offender induces the other person to submit by falsely representing to the other person that the sexual conduct is necessary for mental health treatment purposes;
 - k. the other person is confined in a detention facility, and the offender is an employee of that detention facility;
 - l. the other person is a minor, the offender is a cleric and the other person is a member of, or attends, the church or congregation served by the cleric; or
 - m. the other person is a minor, the offender is a peace officer and the offender is more than two years older than the other person.
3. **Unlawful Sexual Conduct with a Minor:** Engaging in sexual conduct with another, who is not the spouse of the offender, when the offender is eighteen years of age or older and knows the other person is thirteen years of age or older but less than sixteen years of age, or the offender is reckless in that regard.
4. **Sexual Imposition:** Engaging in sexual contact with another (who is not the spouse of the offender), causing another (who is not the spouse of the offender) to have sexual contact with the offender, or causing two or more other persons to have sexual contact when any of the following applies:
- a. the offender knows that the sexual contact is offensive to the other person or one of the other persons, or is reckless in that regard;
 - b. the offender knows that the other person's or one of the other person's ability to appraise the nature of or control the offender's or touching person's conduct is substantially impaired;
 - c. the offender knows that the other person or one of the other persons submits because of being unaware of the sexual contact;
 - d. the other person or one of the other persons is thirteen years of age or older but less than sixteen years of age, whether or not the offender knows the age of such person, and the offender is at least eighteen years of age and four or more years older than such other person; or
 - e. the offender is a mental health professional and the other person or one of the other persons is a mental health client or patient of the offender, and the offender induces the other person

who is the client or patient to submit by falsely representing to the other person who is the client or patient that the sexual contact is necessary for mental health treatment purposes.

5. **Gross Sexual Imposition:** Engaging in sexual contact with another (who is not the spouse of the offender), causing another (who is not the spouse of the offender) to have sexual contact with the offender, or causing two or more other persons to have sexual contact when any of the following applies:
- a. the offender purposely compels the other person, or one of the other persons, to submit by force or threat of force;
 - b. the offender substantially impairs the judgment or control of the other person or of one of the other persons by administering any drug, intoxicant, or controlled substance to the other person surreptitiously or by force, threat of force or deception for the purpose of preventing resistance;
 - c. the offender knows that the judgment or control of the other person or of one of the other persons is substantially impaired as a result of the influence of any drug or intoxicant administered to the other person with the other person's consent for the purpose of any kind of medical or dental examination, treatment or surgery;
 - d. the other person, or one of the other persons, is less than thirteen years of age, whether or not the offender knows the age of that person; or
 - e. the ability of the other person to resist or consent or the ability of one of the other persons to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age, and the offender knows or has reasonable cause to believe that the ability to resist or consent of the other person or of one of the other persons is substantially impaired because of a mental or physical condition or because of advanced age.

In addition, no person shall knowingly touch the genitalia of another, when the touching is not through clothing, the other person is less than twelve years of age, whether or not the offender knows the age of that person, and the touching is done with an intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person.

Domestic Violence – Knowingly causing or attempting to cause physical harm to a family or household member, recklessly causing serious physical harm to a family or household member, or when a person, by threat of force, knowingly causes a family or household member to believe that the offender will cause imminent physical harm to the family or household member.

As used herein, the term “family or household member” means: (1) any of the following who is residing with or has resided with the respondent: (a) a spouse, a person living as a spouse, or a former spouse of the respondent; (b) a parent, a foster parent, or a child of the respondent or another person related by consanguinity or affinity to the respondent; (c) a parent or a child of a spouse, person living as a spouse or former spouse of the respondent, or another person related by consanguinity or affinity to a spouse, person living as a spouse or former spouse of the respondent; or (2) the natural parent of any child of whom the respondent is the other natural parent or is the putative other natural parent.

The term “person living as a spouse” means a person who is living or has lived with the respondent in a common law marital relationship, who otherwise is cohabiting with the respondent, or who otherwise has cohabited with the respondent within five years prior to the date of the alleged occurrence of the act in question.

Dating Violence – Is a pattern of controlling behavior and abuse occurring between persons currently or formerly involved in a dating relationship. A dating relationship is a social relationship of a romantic or intimate nature. The existence of a dating relationship often depends on an assessment of the following factors: (1) the length of the relationship; (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship.

Dating violence can cause injury and even death, but it doesn't have to be physical. It can include verbal and emotional abuse - constant insults, isolation from family and friends, name calling, controlling what someone wears - and it can also include sexual abuse.

Stalking – Occurs when a person, by engaging in a pattern of conduct, knowingly causes another person to believe that the offender will cause physical harm or mental distress to the other person. This includes posting an electronic message with the intent to urge or incite another person to commit stalking. Words or conduct of the offender that are directed at or identify a corporation, association, or other organization that employs the other person or to which the other person belongs may serve as a basis for the other person's belief that the offender will cause physical harm or mental distress to the other person.

As used herein, the term “pattern of conduct” means two or more actions or incidents closely related in time or two or more actions or incidents closely related in time directed at one or more persons employed by or belonging to the same corporation, association, or other organization.

Stalking may include, but is not limited to, the following types of conduct:

- Repeated, non-consensual communication (e.g., face-to-face, phone calls, voice messages, text messages, electronic mail, social media, written letters, unwanted gifts);
- Threatening or obscene gestures;
- Harassing another person, either in person or through a third party;
- Following another person or repeatedly showing up or waiting outside a person's home, classroom, place of employment, or car;
- Threats that create fear for one's life or safety, or fear for the safety of one's family, friends, roommates, or others;
- Surveillance activities (e.g., monitoring an individual's phone calls or reading an individual's mail/email);
- Trespassing or breaking into a person's car or residence;
- Vandalism and/or destruction of a person's personal property.

RETALIATION IS PROHIBITED

Ursuline College does not tolerate retaliatory conduct and strictly prohibits retaliation aimed at a person because that person complained of sexual misconduct, testified, provided information, assisted or participated in any manner in a sexual misconduct investigation, proceeding, or hearing under Ursuline College policies or the law. Therefore, any intimidation, threats, coercion, or other retaliatory conduct against such persons will be addressed by the College in the most serious manner, and individuals who engage in such actions will be subject to disciplinary action that may include suspension, expulsion, dismissal, termination, or removal and exclusion from the College. Anyone who is aware of possible retaliation or has other concerns regarding the response to a sexual misconduct complaint should report such concerns to the Title IX Coordinator, who will take appropriate actions to address such conduct in a prompt and equitable manner.

CONSENT

Consent represents the cornerstone of respectful and healthy intimate relationships. Thus, all sexual conduct or contact occurring on campus and/or occurring with a member of the Ursuline College community must be consensual. Consent requires words or overt acts by a competent person indicating a freely given agreement to the sexual conduct at issue. Consent must be freely given without compulsion or duress by a person legally capable of consenting, and not based on fraud or deception. Consent may not be inferred from silence or passivity alone and a current or previous relationship is not sufficient to constitute consent. Consent to some sexual acts does not constitute consent to others, nor does past consent to a given act constitute present or future consent to the same or another sexual act. Consent must be ongoing throughout a sexual encounter and can be revoked or withdrawn at any time prior to or during a specific sexual act by either person.

There are a number of factors that may limit or negate a person’s ability to consent to a sexual act. These factors include, but are not limited to, age, impairment due to the influence of alcohol or drugs (illegal or prescription), an intellectual or other disability, a person’s temporary or permanent mental or physical impairment, unconsciousness, fear and/or coercion. In order to find a lack of consent under one of these circumstances, there must be a finding that the victim was unable to consent and a finding that the offender knew or had reason to know the victim was unable to consent. Intoxication of the offender is not an excuse for failure to obtain consent or failure to know of the victim’s inability to consent.

TITLE IX COORDINATOR

Ursuline College has designated the following College official to coordinate and oversee its Title IX compliance efforts, to address concerns regarding Title IX, and to investigate and resolve any complaints alleging actions prohibited by Title IX or this policy. Prohibited actions include all forms of sexual harassment/discrimination and misconduct, including sexual assault, domestic and dating violence, and stalking, as well as retaliation.

Deborah L. Kamat
 Director of Compliance/Title IX and Disability Coordinator
 Office Location: Mullen 240
 Telephone: (440) 484-7027
 Email: deborah.kamat@ursuline.edu

CIVIL RIGHTS INVESTIGATORS

The College may also designate other qualified and trained staff and faculty members to assist the Title IX Coordinator with investigations or to review and decide appeals. These individuals are referred to internally as the College’s Civil Rights Investigators. The following individuals have been trained and designated to serve as Civil Rights Investigators for Ursuline College.

Deanne Hurley Vice President for Student Affairs Office Location: Pilla 205 Telephone: (440) 646-8320 Email: dhurley@ursuline.edu	Kelli Knaus Director of Human Resources Office Location: Mullen 235 Telephone: (440) 646-8316 Email: kknaus@ursuline.edu	Elizabeth Kavran Dean, School of Arts and Sciences Office Location: Mullen 322 Telephone: (440) 646-8107 Email: ekavran@ursuline.edu
Anne Murphy Brown Associate Professor & Director of Legal Studies Office Location: Pilla 219 Telephone: (440) 449-5403 Email: amurphybrown@ursuline.edu		

Please Note: The Title IX Coordinator and the Civil Rights Investigators are not confidential reporting resource. While they will address your complaint with sensitivity and keep your information as private as possible, confidentiality cannot be guaranteed. Please see below for information on confidential reporting options.

IMMEDIATE AND ONGOING ASSISTANCE

Individuals who experience sexual misconduct are strongly encouraged to seek immediate medical attention in order to treat injuries, test for and treat sexually transmitted infections, test for pregnancy, and access emergency contraception (if requested). Hospitals can also perform rape evidence collection procedures and test for “date rape” drugs. In addition, the Cleveland Rape Crisis Center offers free, comprehensive services to anyone seeking to heal from sexual violence. CRCC Hospital Advocates are available 24 hours per day, 7 days per week to support sexual violence victims and their families and friends during a visit to the emergency room for a medical examination and evidence collection process. If emergency room medical personnel do not offer to contact a CRCC Hospital Advocate on the victim’s behalf, the victim may request one by calling the CRCC hotline at 216.619.6192.

Short term counseling will be made available to victims of sexual misconduct occurring on or off campus in accordance with the policies of the Office of Counseling and Career Services. The counselor will also assist the victim in finding a long-term counseling relationship if needed; however, the cost of such counseling will be borne by the victim. CRCC also provides victims of sexual violence with individual therapy sessions and a Justice System Advocate to support you through the criminal justice process, all free of charge.

The following area resources can provide victims with medical attention and other support services:

<p>Hillcrest Hospital <i>2.85 mi</i> 6780 Mayfield Rd Mayfield Heights, OH 44124 440.312.4500 www.hillcresthospital.org</p>	<p>Family Urgent Care Center <i>3.10 mi</i> 5195 Mayfield Rd Suite 101 Cleveland, OH 44124 440.442.0400</p>
<p>University Hospitals Chagrin Highlands Urgent Care <i>4.82 mi</i> 3909 Orange Place Suite 101 Orange Village, OH 44122 216.896.1800</p>	<p>Circle Health Services of Greater Cleveland <i>9.80 mi</i> 12201 Euclid Ave Cleveland, OH 44106 216.721.4010 www.circlehealthservices.org</p>
<p>Metro Health Hospital <i>20.30 mi</i> 2500 Metro-Health Dr Cleveland, OH 44109 216.778.7800 www.metrohealth.org</p>	<p>Cleveland Rape Crisis Center <i>21.93 mi</i> The Halle Building 1228 Euclid Avenue, Ste. 200 Cleveland, OH 44115 216.619.6194 www.clevelandrapecrisis.org</p> <p>Signature Square I, 25201 Chagrin Blvd., Ste. 390 Beachwood, OH 44122 (The office is located within Nexis Medical Offices) (216) 619-6194 Phone (216) 619-6192 24-Hour Hotline (phone or text) (216) 619-6195 Fax</p>

<p>Chagrin Counseling Associates 2.87 mi 29325 Chagrin Blvd Suite 102 Pepper Pike, OH 44122 www.chagrincounseling.com 216.360.4606 (Offers general counseling services, counseling for challenging life events, depression/anxiety, addition and other disorders)</p>	<p>RAINN: Rape, Abuse & Incest National Network: RAINN is the nation's largest anti-sexual violence organization. RAINN created and operates the National Sexual Assault Hotline (800-656-HOPE and online.rainn.org). RAINN also carries out programs to prevent sexual violence, help victims and ensure that rapists are brought to justice.</p>
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PRESERVATION OF EVIDENCE

If possible, an individual who has been sexually assaulted should not shower, bathe, urinate, douche, brush teeth, drink or change clothes or bedding before going to the hospital or seeking medical attention. If the individual decides to change clothes, he or she should not wash the clothes worn during the assault and should bring them to the hospital or medical facility. Because medical evidence dissipates quickly, individuals who wish to preserve such evidence are encouraged to seek medical attention within 48 hours (and no more than 86 hours) of the incident. In addition, all physical evidence, including electronic communications (*e.g.*, emails and text messages), recordings, and photographs should be preserved in its original form. These steps are important to help preserve evidence for possible use in legal actions or requests for a civil no-contact order and/or an order of protection.

REPORTING OPTIONS & DUTIES

The reporting and disciplinary procedures outlined in this policy are separate and apart from the criminal justice system, and a victim of sexual misconduct may choose to file a complaint with either the College or law enforcement, with neither, or with both simultaneously. The outcome of a sexual misconduct complaint filed with the College is not dependent on the outcome of a criminal investigation conducted by law enforcement.

Reporting Incidents of Sexual Misconduct to Ursuline College

Ursuline College strongly encourages all victims and witnesses to promptly report incidents of sexual violence/misconduct to the Title IX Coordinator and the Ursuline College Security Department. The College takes all complaints of sexual misconduct seriously and will work to reach a prompt, impartial, and equitable resolution of the matter.

A “**responsible employee**” (oftentimes referred to as a mandatory reporter) is a College employee who has the authority to take action to redress sexual misconduct or has been given the duty to report incidents of sexual misconduct to the appropriate College officials. At Ursuline, all College employees are considered responsible employees and are required to report all incidences of sexual misconduct to appropriate College officials (the Ursuline College Security Department and Title IX Coordinator), unless such employees are specifically designated as confidential reporting resources, as further explained below.

When a victim tells a responsible employee about an incident of sexual misconduct, the victim should anticipate and expect that the responsible employee will convey this information to the appropriate College officials. Upon learning of a complaint of sexual misconduct, the College will take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably. A responsible employee must report to the appropriate College officials all relevant details of the alleged act of sexual misconduct s/he is aware of– including the names of the victim and alleged perpetrator(s), the names of any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident. To the extent possible, information reported to a responsible employee will be shared only with those officials responsible for handling the College’s response to the report.

Before a victim reveals any information to a responsible employee, the employee should ensure that the victim understands the employee's reporting obligations and, if the victim wants to ensure that confidentiality is maintained, the victim should be directed to one of the confidential resources identified below. If the victim still seeks confidentiality but chooses to disclose to the responsible employee what happened despite the warning, the employee should remind the victim that the College will consider the request, but cannot guarantee confidentiality. In reporting the details of the incident to the Title IX Coordinator, the responsible employee should also inform the Coordinator of the victim's request for confidentiality. Responsible employees should not pressure a victim into making a full report if the victim is not ready to do so, nor should they encourage the victim to remain silent about the incident; rather, the employee should honor and support the victim's wishes.

If a victim discloses an incident of sexual misconduct to a responsible employee but wishes to maintain confidentiality or requests that no investigation is conducted or no disciplinary action is taken, the College must weigh that request against the College's legal obligation to provide a safe, non-discriminatory environment for all students and employees, including the victim. If the College honors the request for confidentiality, a victim must understand that the College's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be limited. Sometimes, the College will not be able to honor a victim's request because of the need to provide a safe, non-discriminatory environment for all students and employees.

When weighing a victim's request for confidentiality or that no investigation or discipline be pursued, the Title IX Coordinator may consider a range of factors, including, but not limited to the following:

- the increased risk that the alleged perpetrator will commit additional acts of sexual violence or other misconduct, such as:
 - whether there have been other sexual violence/misconduct complaints against the same alleged perpetrator;
 - whether the alleged perpetrator has a criminal record demonstrating a history of violence;
 - whether the alleged perpetrator has a history of engaging in sexual misconduct or inappropriate conduct from a prior school or employer;
 - whether the alleged perpetrator threatened further sexual violence or other misconduct against the victim or others;
 - whether the sexual violence/misconduct was committed by multiple perpetrators or against multiple victims;
- whether the sexual violence/misconduct was perpetrated with a weapon;
- whether the sexual violence/misconduct occurred on campus or other property owned or controlled by the College;
- whether the victim is a minor;
- whether the offender(s) is a member of the Ursuline College community;
- whether the College possesses other means to obtain relevant evidence of the sexual violence/misconduct (e.g., security cameras or personnel, audio recordings, physical evidence).

The presence of one or more of these factors could lead the College to investigate and, if appropriate, pursue disciplinary action against the alleged perpetrator, despite the victim's request.

If the College determines that it cannot honor a victim's request for confidentiality or that no investigation or discipline be pursued, the College will inform the victim prior to starting an investigation and will, to the extent

possible, only share information with people responsible for handling the College's response. The College will remain ever mindful of the victim's well-being and will take ongoing steps to protect the victim from harm and will work with the victim to create a safety plan. Retaliation against the victim, whether by students or College employees, will not be tolerated.

The College recognizes that victims impacted by sexual misconduct may wish to take advantage of the health and support services available on campus without disclosing the incident or making a formal report to the College. To that end, certain College employees have been designated as **limited and fully confidential resources** to whom victims can speak to without their personally identifying information being shared with the Title IX Coordinator or Campus Security.

Non-professional counselors and advocates who work or volunteer in the Office of Counseling and Career Services, the Office for Diversity, and the Women's Center are not considered responsible employees and can generally talk to a victim without revealing any personally identifying information about an incident to the College. These counselors include: the Director of the Office of Counseling & Career Services, **Gerri Jenkins**; the Assistant Dean for Diversity, **Yolanda King**; all other counselors and advocates who work or volunteer in the Office of Counseling and Career Services and/or the Office for Diversity; and the Co-Directors of the Women's Center, **Amy Lechko and Jessica Headley**.

If you are a victim of sexual misconduct and do not want to pursue action through the Ursuline College system or the criminal justice system, you may still want to consider making a **limited report** to one of the above-listed individuals or offices. A victim can seek assistance and support from these individuals/offices without triggering a College investigation that could reveal the victim's identity or that the victim has disclosed the incident. While maintaining a victim's confidentiality, these individuals or their office should report the nature, date, time, and general location of an incident to the Title IX Coordinator and the Ursuline College Security Department. This limited report – which includes no information that would directly or indirectly identify the victim – helps keep the Title IX Coordinator and Security Department informed of the general extent and nature of sexual violence and other crimes on and off campus so that the College can keep an accurate record of the number of incidents involving students, faculty, staff or guests; track patterns of crime; evaluate the scope of each incident; formulate appropriate campus-wide responses; and alert the campus community to potential danger, if necessary. Limited reports filed in this manner are counted and disclosed in the annual crime statistics for the College without revealing any confidential information regarding the victim.

Pastoral and licensed professional counselors, when acting in their professional capacity, are not considered responsible employees and are not required to report any information regarding complaints of sexual misconduct to either the Title IX Coordinator or the Ursuline College Security Department. Thus, these counselors are not required to report crimes for investigation or inclusion in the annual disclosure of crime statistics. Crimes reported to these counselors are **strictly confidential**. These counselors include: the Campus Minister, **Joann Piotrkowski**; the College Psychologist, **Anita Culbertson**; and all other licensed professional counselors in the Office of Counseling and Career Services who provide mental health counseling to members of the College Community, including **Jennifer Mooney**. As a matter of policy, pastoral and licensed professional counselors are encouraged – if and when they deem it appropriate – to inform persons being counseled of the procedures to report crimes on a voluntary and confidential basis for inclusion in the annual crime statistics report.

A victim who speaks to a professional or non-professional counselor or advocate must understand that if the victim wants to maintain confidentiality, the College may not be able to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator. Even so, these counselors and advocates will still assist the victim in receiving other necessary protection and support, such as victim advocacy, academic support or accommodations, disability, health or mental health services, and changes to living, working or course schedules. A victim who at first requests confidentiality may later decide to file a

complaint with the College or report the incident to local law enforcement, and thus have the incident fully investigated. These counselors and advocates will provide the victim with assistance in filing a complaint, if the victim wishes to do so.

Please Note: While these professional and non-professional counselors and advocates may maintain a victim's confidentiality vis-à-vis the College, they may have reporting or other obligations under state law, such as mandatory reporting to law enforcement in case of minors; imminent harm to self or others; requirement to testify if subpoenaed in a criminal case.

Reporting Incidents of Sexual Misconduct to Law Enforcement

Sexual violence and misconduct are criminal acts and Ursuline College strongly encourages all victims and witnesses to report incidents of sexual violence/misconduct to the Pepper Pike Police Department or any other appropriate law enforcement agency if the incident occurred off campus. Upon request, Ursuline College officials are available to assist an individual in contacting and/or notifying the appropriate law enforcement agency. Please note that under Ohio law, with certain exceptions, persons who have knowledge of a felony are required to report such information to law enforcement authorities. *See* Ohio Revised Code § 2921.22. Failure to report a felony may itself be a crime.

Pepper Pike Police Department
28000 Shaker Blvd.
Pepper Pike, Ohio 44124

For emergencies, dial 911. If dialing from a campus phone, you must dial 9-911. For non-emergency calls to all divisions or personnel of the Pepper Pike Police Department, use the business line at (216) 831-8500 and the operator will direct your call.

Although cooperation with law enforcement may require Ursuline College to temporarily suspend its internal investigation into complaints/reports of sexual misconduct, the College will promptly resume the investigation as soon as it is notified by law enforcement that the agency has completed its evidence gathering. The College will not, however, wait for the conclusion of a criminal proceeding to begin its own investigation and, if necessary, will take immediate and interim measures to address the alleged conduct.

AMNESTY FOR REPORTING

Ursuline College encourages reporting of sexual misconduct and seeks to remove any barriers to an individual making a report. The College recognizes that individuals who have been drinking or using drugs at the time of the incident may be hesitant to make a report because of potential consequences for their own conduct. Thus, individuals who report sexual misconduct, either as a Complainant or a third party witness, will not be subject to disciplinary action by the College for their own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk. Ursuline College may, however, initiate an educational discussion on the use of alcohol or other drugs or require participation in an alcohol/drug prevention training course/program. Amnesty will not be extended for any violations of Ursuline College policy other than for alcohol/drug use. In addition, amnesty does not preclude or prevent action by police or other legal authorities.

ANONYMOUS COMPLAINTS

Anonymous complaints will be accepted; however, the College's ability to obtain necessary and additional information may be compromised and the ability to investigate or resolve anonymous complaints may be limited.

BAD FAITH COMPLAINTS

This policy shall not be used to bring frivolous or malicious complaints against members of the Ursuline College community. If the College's investigation reveals that a complaint is made in bad faith or is knowingly

false, such complaint shall be dismissed and the person who filed the bad faith complaint may be subject to disciplinary action. A complaint, however, will not be considered false, frivolous or in bad faith solely because it cannot be corroborated.

ACADEMIC/WORK ACCOMMODATIONS AND INTERIM MEASURES

Upon learning of sexual misconduct, the College may implement academic or work accommodations and other interim measures as may be appropriate for the individuals involved or the Ursuline College community at large. Such accommodations and interim measures may be implemented at any time (before or after receiving a formal report/complaint, during the investigation, or upon resolution of the matter) and may include among other things: separation of the parties and/or witnesses, no-contact orders, modified work or class schedules, alternative housing arrangements for students, providing the victim with an escort to ensure the safe travel between buildings and classes on campus, restrictions on team activities and participation in campus life, a requested leave of absence, interim suspension of the accused pending resolution of the complaint, and any other measures that may be deemed appropriate under the specific circumstances at issue. Many of these accommodations and interim measures are available to the parties regardless of whether an individual chooses to report sexual misconduct to the police or file a formal complaint with the College. Interim measures may also become permanent depending upon the outcome of an investigation. The College will attempt to minimize any adverse effects on the victim when implementing interim measures.

In certain instances, the College may need to report an incident to law enforcement authorities. Such circumstances include any incidents that warrant the undertaking of additional safety and security measures for the protection of the student, employee or other members of the Ursuline College community or other situations in which there is clear and imminent danger, and when a weapon may be involved. However, in all cases, crisis intervention and safety concerns will take precedence.

PROCEDURES FOR INVESTIGATION AND RESOLUTION OF COMPLAINTS

Upon notification of a complaint alleging a violation of this Policy on Sexual Misconduct, an investigation into the matter will be conducted in a prompt, fair, thorough, and impartial manner by the Title IX Coordinator and/or one or more of the College's Civil Rights Investigators, who shall have adequate knowledge and training on how to conduct proper investigations under Title IX. The designated investigator(s) shall serve both as the fact-finder and decision-maker. The objectives of the investigation and decision-making process is to: (1) determine whether the alleged conduct occurred; (2) if yes, determine if the conduct constitutes a violation of this policy; (3) if yes, determine what sanctions should be imposed and what actions will be taken to end the harassing or discriminatory conduct and prevent its recurrence.

If the complainant or the respondent has a concern about the conduct of any investigator or believes that an investigator has a conflict of interest that may impair the investigator's ability to be fair and impartial, the complainant/respondent should immediately put her/his concerns in writing and submit them to the President of the College for review. The President of the College or the President's designee (if so appointed) will promptly review the matter and issue a timely, written decision.

COOPERATION WITH INVESTIGATION AND DISCIPLINARY PROCEDURES

Ursuline College expects all members of the College community to cooperate fully in the investigation and disciplinary procedures. The College recognizes that an individual may be reluctant to participate in the process; nevertheless, any student or member of the faculty or staff who refuses to cooperate in an investigation may be subject to discipline, depending on the particular circumstances.

The College also understands that there may be circumstances in which a complainant wishes to limit her/his participation in an investigation. The complainant retains this right and typically will not be subject to discipline for failure to participate. However, the designated investigator(s) may be required to move forward

with an investigation, absent the complainant's participation in the process. In such situations, it may be difficult to ascertain the facts and evidence necessary to reach a just resolution.

If a respondent chooses not to answer any or all questions in an investigation or refuses to participate for any reason, s/he may choose to do so. However, the designated investigator(s) will continue with the investigation process, findings will be reached with respect to the alleged conduct, and the College will issue sanctions, if appropriate. The College will not, however, draw any adverse inference from a respondent's silence.

In order to protect the integrity of the investigation and disciplinary processes, all parties and witnesses are expected to maintain the confidentiality of information shared, received, disclosed or revealed during the overall process. However, confidentiality is not required if disclosure is mandated by law, or if disclosure is necessary to report a crime or violation of law, or to engage in concerted activity regarding the terms or conditions of employment, or in relation to the right of a student respondent or complainant to re-disclose the outcome of an investigation under FERPA and/or the Campus Crime Statistics Act (the Clery Act).

INITIAL ASSESSMENT OF COMPLAINT/REPORT

The investigative process is initiated when the Title IX Coordinator receives a complaint or a report of a violation of this policy. The Title IX Coordinator and/or one or more of the College's Civil Rights Investigators will conduct an initial assessment of the complaint/report to determine the next steps. Following the initial assessment, one or more of the following actions will be taken:

- If it is determined that the complaint/report, even if substantiated, is outside the scope of this policy or would not rise to the level of a policy violation, the complaint/report may be dismissed or addressed pursuant to another policy (if applicable), or referred to another office or College official for appropriate review and resolution.
- If it is determined that the complaint/report, if substantiated, would constitute a violation of this policy, the appropriate interim measures will be determined and a formal investigation will be initiated.

FORMAL INVESTIGATION

The following procedures shall apply during a formal investigation:

1. Initial statements (preferably written) describing the incident(s) in question shall be obtained from both the complainant and the respondent and, upon request, each party's statement (or summary thereof prepared by the investigator) shall be shared with the other party, except to the extent any statement contains privileged, confidential, or FERPA-protected information, which shall be determined solely by the College.
2. Both the complainant and the respondent to the complaint will have an equal opportunity to provide evidence and to identify any witnesses that support their position.
3. Interviews shall be conducted of the complainant, the respondent, any witnesses identified by the parties as relevant and necessary to the matter, and any witnesses determined by the investigator(s) to be relevant to the matter. If any witnesses identified by the parties as relevant and necessary to the matter are not interviewed, then the investigator(s) will state, in the written response to the parties, the reason(s) for not conducting the additional interviews.
4. Parties and witnesses may be interviewed more than once in order to gather all relevant information and evidence.
5. All relevant documents and evidence shall be gathered and reviewed by the investigator(s) and, upon request, made available for review by the parties, except to the extent that such documents and/or evidence contain privileged, confidential, or FERPA-protected information, which shall be determined solely by the College.

6. Due to the nature of most sexual misconduct allegations, the parties will be interviewed separately and neither the complainant nor respondent will be permitted to directly question one another. The parties will not be required to be present together at any point during the process, and informal resolution through face-to-face mediation will not be available.
7. No questions or evidence pertaining to the complainant's prior sexual conduct with anyone other than the respondent shall be allowed, and evidence of a prior consensual dating or sexual relationship between the parties shall not by itself imply consent or preclude a finding of sexual misconduct.
8. All investigations will be conducted under a preponderance of the evidence standard, meaning, the investigator(s) will determine whether it is more likely than not that the respondent violated the Sexual Misconduct Policy.
9. Both the complainant and the respondent may have a single advisor/support person of their choice present during any meetings with the investigator(s). The advisor/support person may not actively participate during any meetings or ask or answer any questions during the meetings. They may advise the parties privately but may not confer with them while the meeting is in progress. The investigator(s) may remove any advisor/support person who distracts or disrupts the investigatory or decision-making processes. The support person shall not be another individual who will have to be interviewed as a witness.
10. The investigator(s) may record by electronic, stenographic, or other means any meeting, to the extent permitted by law. Other than the official recording made by the investigator(s), no photographs, tape recordings, videotapes, stenographic records, or other recordings of proceedings under this policy may be made by any person. If an official recording has been made, the parties may request permission to listen to the recording at the conclusion of the investigation and prior to filing an appeal. The initial investigator(s) will determine the conditions under which persons will have access to the recording in order to preserve confidentiality. At no point will either party be given a copy of the recording.
11. The investigator(s)' written notes shall not be accessible to either party and shall be deemed confidential.
12. The investigation shall be completed as promptly as possible. Generally, investigations will be completed within 60 days of receipt of the complaint. However, complicated cases, absence of witness, school closings, or other factors may result in longer investigations. If the investigation will exceed 60 days, the investigator(s) will notify the complainant and the respondent.
13. Once the investigation has been completed, the investigator(s) will issue a written report detailing the results of the investigation and whether any sanctions or other corrective measures will be imposed, as appropriate and in compliance with FERPA. The respondent shall not be informed of all remedies offered to the Complainant unless they specifically relate to the respondent, such as a no contact order or no trespass order.
14. The complainant and the respondent shall be informed in writing of the results of the investigation at the same time. For employees, the respondent's supervisor also will be notified of the results of the investigation.

SANCTIONS

A complaint alleging sexual misconduct does not alone constitute proof of prohibited conduct. As such, the fact that a complaint has been filed against an individual in the past shall not be taken into consideration when evaluating or making decisions regarding the academic or employment status of such individual, unless the previous or current investigation results in a finding of a policy violation.

Persons found to be in violation of this policy will be subject to immediate and appropriate disciplinary action, proportional to the seriousness of the offense. Possible sanctions include, but are not limited to: oral or written

warning/reprimand, loss of privileges, mandatory training or counseling, disciplinary probation, performance improvement plan, last chance agreement, College or social probation, expulsion from school, reassignment, fine, restitution, no-contact order, restriction from specific College programs or activities, housing restriction/relocation, restriction from College employment, demotion, involuntary leave of absence, suspension or termination of employment or contractual status, revocation of tenure, and/or removal and exclusion from Ursuline College property.

APPEAL PROCEDURES

Upon receipt of the investigator(s)' final written report, each party shall have fourteen (14) consecutive days within which to file a written appeal of the decision with the President of Ursuline College. The President shall then assign the appeal to one or more of the College's Civil Rights Investigators for review. The person(s) reviewing the appeal (the "Appeal Panel") shall not be the same person(s) who issued the final written report and investigated the complaint. The Appeal Panel's job shall be to review the pertinent evidence presented and to determine whether the decision initially reached by the investigator(s) was arbitrary and capricious. The Appeal Panel's determination shall be final and binding. This process will be followed regardless of whether legal proceedings are pending.

TRAINING, PREVENTION AND EDUCATION

Ursuline College provides educational resources, programming and counseling services throughout the year related to the prevention of sexual assault, stalking, and domestic and dating violence. Educational awareness and training programs are presented during student and employee orientations, and Residence Life and the Office of Counseling and Career Services provide programs utilizing non-campus resources such as the Case Western Reserve University Police, the Pepper Pike and Mayfield Heights Police Departments, a Sexual Assault Nurse Examiner (SANE) from Hillcrest Hospital, and staff from the Cleveland Rape Crisis Center and Recovery Resources. The Office of the General Counsel / Legal Department also provides routine and on-going education and training related to the prevention of sexual assault, stalking, and domestic and dating violence.

Ursuline College now requires that all students and employees successfully complete an on-line training course/program on the awareness and prevention of sexual assault, stalking, and domestic and dating violence. The on-line training course/program is currently provided through an outside vendor and addresses the following:

- Definitions of sexual harassment, sexual assault, domestic violence, dating violence, stalking, and consent under Ohio law;
- Safe and positive options for bystander intervention that may be utilized by an individual to prevent harm or intervene when there is a risk of domestic violence, dating violence, sexual assault, or stalking against a person; and
- Information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks, among other topics.

In addition to the on-line training course/program, students and employees are required to successfully complete a refresher course/program annually.

All individuals designated to serve as investigators and appeal panelists under Ursuline College's harassment/discrimination, sexual misconduct, and bullying policies (including the College's Director of Compliance / Title IX and Disability Coordinator) receive annual training and education regarding these policies and are trained on how to conduct proper investigations in a prompt, thorough, and impartial manner. Training and certification is conducted by the Office of the General Counsel / Legal Department and by other

properly licensed and trained professionals such as Squire Patton Boggs and the Association of Title IX Administrators (ATIXA).