

	MOREHOUSE SCHOOL OF MEDICINE	POLICY NUMBER	H.R. 1.00 (Title IX)
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	Sex/Gender Nondiscrimination and Sexual Harassment Policy	SUPERSEDES	9-27-2012 6-22-2009

## I. **POLICY.**

Morehouse School of Medicine ("MSM" or "School") does not discriminate on the basis of sex in its employment decisions, education programs and education activities as required under Title IX of the Education Amendments of 1972 and in its implementing regulations, and in part under Title VII of the Civil Rights Act of 1964, as well as any other applicable federal and state laws or local ordinances. This policy covers all employment and admissions decisions affecting any member of the "MSM Community" (as defined below) as they related to conduct prohibited under this policy, including sex/gender discrimination, as well as all types of sexual misconduct, including, but not limited to, sexual harassment and sexual violence.

MSM also prohibits retaliation against members of the MSM Community (as defined below) who raise concerns about or report incidents of sex discrimination and sexual harassment. Any individual found to have violated this Policy will be subject to disciplinary action up to and including termination for employees, expulsion for students, and non-renewal for resident physicians. Certain behavior also violates MSM's policy even when it does not constitute a violation of law.

General inquiries about the application of Title IX should be directed to the U.S. Department of Education's Office of Civil Rights or the School's Title IX Coordinator or Deputy Title IX Coordinator:

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## **II. APPLICABILITY.**

This Policy applies to all faculty, staff, administration, supervisors, employees, resident physicians, students, applicants, volunteers, patients and visitors to campus, including guests, patrons, independent contractors or clients of MSM (individually "Person(s)"; collectively "the MSM Community"). This Policy prohibits unlawful discrimination, harassment and retaliation on the basis of sex in any employment decision, education program or educational activity, which means all academic, educational, extracurricular, and other programs and operations.

Any MSM Persons designated by MSM to have the authority to address or duty to report alleged gender-based discrimination, sexual harassment and/or retaliation who fails to address or report alleged gender-based discrimination, sexual harassment and/or retaliation of which they know or should have known, may be subjected to sanctions up to and including termination of employment, dismissal or expulsion.

## **III. DEFINITIONS.**

- A. Complaint** means a Complaint alleging any action, policy, procedure, or practice which would be prohibited by Title IX, such as gender-based discrimination or sexual harassment.
- B. Complaint Answer** means the written statement of the Respondent regarding the Complaint allegation and possible corrective action.
- C. Complainant** means an MSM Person who submits a Complaint under this Policy, or an individual or group submitting a Complaint on behalf of an MSM student or employee.
- D. Consent** means clear, unambiguous, and voluntary agreement between participants to engage in specific sexual activity. Consent is active, not passive, and is given by clear actions or words. Consent may not be inferred from silence, passivity, or lack of active resistance alone. A current or previous dating or sexual relationship is not sufficient to constitute consent, and consent to one form of sexual activity does not imply consent to other forms of sexual activity. Being intoxicated does not diminish one's responsibility to obtain consent. In some situations, an individual may be deemed incapable of consenting to sexual activity because of circumstances or the behavior of another, or due to their age. Examples of such situations absent of consent include, but are not limited to, incompetence, impairment from alcohol and/or other drugs, fear, unconsciousness, intimidation, coercion, confinement, isolation, or mental or physical impairment.
- E. Corrective Action** means action which is taken by MSM to eliminate or modify any policy, procedure, or practice found to be in violation of Title IX and/or to provide redress to any Complainant injured by the identified violation. Corrective action includes sanctions up to and including, termination of employment, suspension, expulsion, or non-renewal.
- F. Dating Violence** is violence committed by a person:
  1. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
  2. Where the existence of such a relationship may be determined based on 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.

**G. Discrimination** is adverse treatment of any Person based on that Person's gender, rather than on the basis of his/her individual merit or other lawful considerations. Decisions made with respect to the terms, conditions, or privileges of employment and education including, but not limited to hiring, firing, promoting, disciplining, scheduling, training, or deciding how to compensate an employee, resident, student, or applicant must be made without consideration of an individual's gender.

**H. Domestic Violence (or Family Violence)** is a category of felony or misdemeanor crimes of violence committed by a current or former spouse 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, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. Georgia state law specifically defines such violence as the occurrence of a felony or the commission of offenses of battery, simple battery, simple assault, assault, stalking, criminal damage to property, unlawful restraint, or criminal trespass between:

1. Past or present spouses;
2. Persons who are parents of the same child;
3. Parents and children;
4. Stepparents and stepchildren;
5. Foster parents and foster children; or
6. Other persons living or formerly living in the same household.

**I. Notice of Outcome** means the written statement of a Title IX Coordinator, Deputy Title IX Coordinator, or other investigator of his/her findings regarding the validity of the complaint and the recommended Corrective Actions to be taken and/or sanctions to be imposed.

**J. Respondent** means a person alleged to be responsible, or who is accused of conduct alleged in the complaint to constitute a Title IX violation. The term may be used to designate persons with direct responsibility for a particular action or those persons with supervisory responsibility for procedures and policies in those areas covered in the complaint (i.e. a department head or chairperson).

**K. Retaliation** is any adverse action taken against an individual because he or she filed a charge of discrimination (including harassment), complained to the School or a government agency about discrimination and/or harassment on the job or in an academic setting, or participated in an employment or student discrimination proceeding (such as an internal investigation or lawsuit), including as a witness. Retaliation also includes adverse action taken against someone who is associated with the individual opposing the perceived discrimination or harassment, such as a family member.

Examples of retaliation include termination, dismissal, demotion, refusal to promote, or any other adverse action involving a term, condition, or privilege of employment or academic opportunity.

**L. Sexual harassment** is conduct that is sexual in nature, is unwelcome and denies or limits a student's ability to participate in or benefit from a school's education programs, or negatively impacts an individual's work environment at MSM. It is a form of misconduct that is demeaning to others and undermines the integrity of the employment relationship and learning environment. Sexual harassment is unlawful and prohibited regardless of whether it is between or among members of the same sex or opposite sex. Sexual harassment also may consist of inappropriate gender-based comments and gender stereotyping. Examples of conduct constituting sexual harassment and which create a hostile environment include, but is not limited to:

- Making unwelcome sexual advances, propositions or other sexual or gender-based comments, such as sexual or gender-oriented gestures, sounds, remarks, jokes or comments about a Person's gender, sex, sexuality or sexual experiences;
- Requesting sexual favors, or engaging in other verbal or physical conduct of a sexual nature;
- Verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, or suggestive or obscene letters, notes, drawings, pictures or invitations;
- Conditioning any aspect of an individual's employment or academic participation on his or her response to sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature;
- Creating an intimidating, hostile or offensive working or academic environment by sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature; and
- Conduct that is criminal in nature, such as rape, sexual assault, domestic violence, dating violence, sexually motivated stalking and other forms of sexual violence.

**M. Sexual assault** is a sexual act against the will and without the consent of the individual (alleged victim). Falling under the definition of sexual assault is sexual activity such as forced sexual intercourse, sodomy, child molestation, incest, fondling, rape, attempted rape, sexual battery and aggravated sexual battery. Additionally, Georgia law defines sexual assault as sexual contact that is perpetrated by a person who has supervisory or disciplinary authority over another individual. Sexual assault is a criminal sex offense under Georgia law.

**N. Stalking** occurs when a person follows, places under surveillance or contacts another person (i.e. the victim) at or about any public or private property occupied by the victim other than the residence of the person without the consent of the victim for the purpose of harassing and intimidating the victim. Harassment and intimidation is a knowing and willful course of conduct directed at a specific person which causes emotional distress by placing such person in reasonable fear for such person's safety or the safety of a member of his or her immediate family, by establishing a pattern of harassing and intimidating behavior, and which serves no legitimate purpose. Examples of contacting another person include, but are not limited to, communicating in person, by telephone, by mail, by broadcast, by computer or computer network, or by any other electronic device.

**O. Title VII**, as referenced in this Policy, means Title VII of the Civil Rights Act of 1964, the Title VII implementing regulations, and any memoranda, directives, guidelines, or subsequent legislation that may be issued or enacted specifically in the context of sex/gender discrimination. Like Title XII, Title VII prohibits, in part, employment discrimination based on sex/gender. All other types of non-gender related prohibited

Title VII conduct is addressed and covered by the School's General Statement of Nondiscrimination and Anti-Harassment Policy.

**P. Title IX** means Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681 and 1682), the 1980 implementing regulations (34 C.F.R. Subpart E), and any memoranda, directives, guidelines, or subsequent legislation that may be issued or enacted. Title IX states, in relevant part, that "no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

**Q. Title IX Coordinator**, as referenced in this Policy, means the employee(s) designated to coordinate the School's efforts to comply with and carry out its responsibilities under Title IX and the Title IX implementing regulations. The Title IX Coordinator (and the Deputy Title IX Coordinator) is responsible for investigating and disposing of all complaints of unlawful sex-based discrimination, sexual harassment and retaliation involving Persons covered under this Policy; monitoring the School's overall implementation of Title IX complaint proceedings; coordinating the School's compliance with Title IX; and determining the corrective action necessary for future prevention of unlawful sex-based discrimination, sexual harassment, and retaliation. In cases where sex-based employment discrimination is alleged, the Title IX Coordinator (or deputy) will also coordinate the School's efforts to comply with and carry out its responsibilities under Title VII and the Title VII implementing regulations, where the application of Title IX and Title VII overlap.

**R. Title IX Investigator**, as referenced in this Policy, means the Title IX Coordinator, Deputy Title IX Coordinator, or their designee, tasked with investigating any complaints made under this Policy, and issuing an Interim Notice of Outcome regarding same.

#### **IV. PROHIBITION AGAINST RETALIATION.**

Title IX (and Title VII) expressly prohibits retaliation against anyone who, in good faith, reports what s/he believes is discrimination or harassment, who participates or cooperates in any investigation, or who otherwise opposes unlawful conduct believed to be in violation of this policy. Retaliation includes intimidation, harassment, threats, or other adverse action or speech against the person who reported the misconduct, the Complainant(s), or witnesses. MSM will not only take steps to prevent retaliation, but it will also take strong corrective action if it occurs. Anyone who believes he or she has been the victim of retaliation for reporting discrimination or harassment, participating or cooperating in an investigation or otherwise opposing unlawful conduct believed to be in violation of this policy should immediately contact the Title IX Coordinator or the Deputy Title IX Coordinator, who have authority to investigate all such claims. Any individual found to have retaliated against another individual who engaged in conduct consistent with the protections afforded under this Policy will be in violation of this policy and will be subject to disciplinary action.

#### **V. FALSE ACCUSATIONS.**

Anyone who knowingly makes a false accusation of discrimination, harassment, or retaliation will be subject to appropriate sanctions. Failure to prove a claim of discrimination, harassment, or retaliation does not, in and of itself, constitute proof of a knowing false accusation.

**VI. JURISDICTION AND AUTHORITY OF MSM AND THE TITLE IX COORDINATOR.**

MSM through the Title IX Coordinator and/or Deputy Title IX Coordinator has jurisdiction to receive, investigate, hear and resolve reports and/or formal complaints brought by MSM faculty, staff, Resident Physicians, students and other members of the MSM Community that involve or invoke Title IX. The Title IX Coordinator is authorized to enact procedures that include specific instructions for reporting, investigating and resolving incidents and/or Title IX complaints.

There is no time limit to filing a complaint, making a report or commencing an investigation under these procedures. However, victims are encouraged to report a complaint immediately in order to maximize the School's ability to obtain information, and conduct an adequate, thorough, prompt, and impartial investigation. Failure to promptly report alleged sex discrimination or sexual violence may result in the loss of relevant information, evidence, and reliable witness testimony, and may impair the School's ability to carry out these procedures.

**VII. PROCEDURES A VICTIM SHOULD FOLLOW IMMEDIATELY FOLLOWING THE OCCURRENCE OF SEX DISCRIMINATION OR SEXUAL HARASSMENT.**

MSM is acutely aware that a victim of sex discrimination and/or of a sex offense, in particular, may experience physical, mental and emotional trauma as a result of the incident. Therefore, in order for MSM to conduct a prompt, fair and thorough investigation into the incident and commence appropriate disciplinary proceedings (if the victim so chooses), a victim of sexual violence (e.g., rape, sexual assault, dating violence, domestic violence, stalking) is encouraged to follow these procedures immediately following the occurrence, when possible:

- a) Go to a safe place as soon as possible.
- b) Do not wash, shower, bathe, use the toilet or change clothing. Preserve any evidence as would be necessary to prove the offense, or in obtaining a protective order, restraining order, and/or no-contact order. Examples of such evidence include:
  - i. Clothing worn during the incident, including, but not limited to, undergarments;
  - ii. Sheets, bedding, and condoms, if used;
  - iii. A list of witnesses with contact information;
  - iv. Text messages, emails, call history, and social media posts; and
  - v. Pictures of any injuries.
- c) Call the appropriate law enforcement agency. If the sex offense occurred on campus, contact the Department of Public Safety as soon as possible by (404) 752-1794 or (404) 752-1795. If the attack did not occur on campus, call the law enforcement agency having jurisdiction where the sex offense

(i.e. the rape, sexual assault, dating violence, domestic violence, etc.) occurred.

- d) Get medical attention. If called, the Department of Public Safety will assist the victim in calling an EMS, if wanted. You may also take yourself or have someone else take you directly to the medical facility or medical provider of choice. Please ensure that any medical assistance you receive will include collecting any evidence.
- e) Talk to a counselor. The victim may contact MSM Counseling Services at (404) 752-1789 for guidance on medical and counseling services. Employees should consult the Employee Assistance Program at 1-877-622-4327 for guidance on medical and counseling service referrals. The victim also has a right to have an advocate and support person present at the hospital, doctor's office, or urgent care unit for examination.

### **VIII. OPTIONS FOR REPORTING OR DISCLOSING INCIDENTS OF SEXUAL VIOLENCE.**

If a victim of a sex offense, domestic violence, dating violence, sexual assault or stalking or other form of sexual violence is able and feels safe, he or she should clearly explain to the alleged offender that the behavior is objectionable and request that it cease. Alternatively, if the victim is not able or does not feel safe confronting the alleged offender, or the behavior does not stop, or if the victim believes some adverse employment, academic or educational consequences may result from the discussion, the victim may do one or more of the following:

1. Report the offense to his/her immediate supervisor or department chairperson, the Title IX Coordinator, or the Deputy Title IX Coordinator.
2. Notify the Department of Public Safety or other law enforcement authorities;
3. Request assistance in notifying appropriate law enforcement authorities, which assistance MSM will provide; or
4. Decline to notify any such authorities.

### **IX. FILING A COMPLAINT FOR VIOLATIONS OF THE SEX/GENDER NONDISCRIMINATION AND SEXUAL HARASSMENT POLICY.**

Any Person, or any individual or group acting on behalf of a Person, seeking to raise concerns with individual or institutional sex-based discrimination, sexual harassment or sexual violence may file a formal complaint with the Title IX Coordinator or the Deputy Title IX Coordinator. **The Title IX Coordinator (or Deputy Title IX Coordinator) must be contacted in order to initiate a complaint.** The complaint should be brought as soon as possible after the most recent incident. No Person should assume that an official of MSM knows about a particular situation. The School encourages any individual who feels he or she has been discriminated against or harassed to promptly report the incident to the Title IX Coordinator or the Deputy Title IX Coordinator. Any person who knows of, or receives a complaint of sex discrimination or sexual harassment should report the information to or file a complaint with the Title IX Coordinator or the Deputy Title IX Coordinator.

Complaints filed with the Title IX Coordinator or the Deputy Title IX Coordinator must be in writing and provide the following information: (i) name and contact information for the complaining Person(s) ("Complainant(s)"); (ii) nature and date of alleged violation; (iii) names and contact information for the Person(s) responsible for the alleged violation (where known) ("Respondent(s)"); (iv) requested relief or corrective action (specification of desired relief shall be the option of the Complainant); and (v) any other background or supplemental information that the Complainant believes to be relevant (e.g., names of other persons affected by the violation, etc.).

1. Upon receipt of a complaint alleging dating violence, domestic violence, sexual assault, stalking, or sexual violence, the Title IX Coordinator or the Deputy Title IX Coordinator will promptly schedule an individual meeting with the victim to:
  - a) Provide him/her a general understanding of these complaint procedures, the prohibition against retaliation, and the investigative process;
  - b) Discuss and provide written information regarding forms of support or immediate interventions available to the victim, such as on- and off-campus resources and interim measures;
  - c) Discuss and provide written information regarding the victim's options for, and available assistance in, changing any accommodations that may be appropriate and reasonably available concerning the victim's academic, living, transportation and working situations;
  - d) Seek to determine if the victim wishes to notify law enforcement authorities, wishes to be assisted in notifying law enforcement authorities, or does not wish to notify law enforcement authorities;
  - e) Where applicable, provide information to the victim of his or her rights and the School's responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil or tribal court; and
  - f) Inform the victim about how MSM will protect his or her confidentiality, including the omission of the victim's identifying information in publicly-available records or in oral and written communications to the accused, to the extent permissible by law.

**X. WHEN THE VICTIM REQUESTS CONFIDENTIALITY AND/OR ELECTS NOT TO PROCEED WITH AN INVESTIGATION OR PURSUE FORMAL DISCIPLINARY PROCEEDINGS.**

1. If the victim does not wish to proceed with an investigation and/or requests that the complaint or report remain confidential, the Title IX Coordinator or the Deputy Title IX Coordinator will inform the victim that the School's ability to respond fully to the incident may be limited because of this desire. The victim should also understand that Title IX prohibits retaliation, and that School officials will not only take steps to prevent retaliation but also take strong responsive action if it occurs.



2. The Title IX Coordinator or Deputy Title IX Coordinator will weigh the victim's request(s) for confidentiality and/or wish not to proceed with an investigation against the School's obligation to provide a safe, non-discriminatory environment for all students. Specifically, the Title IX Coordinator or Deputy Title IX Coordinator will consider the following factors:
  - a) The seriousness of the misconduct;
  - b) Whether there have been other complaints of sex discrimination or sexual violence against the accused at the School or any other school or in the nature of prior criminal charges;
  - c) Whether the accused threatened further misconduct or violence against the victim or others;
  - d) Whether the misconduct was committed by multiple perpetrators;
  - e) Whether the misconduct involved use of a weapon;
  - f) The age of the victim;
  - g) Whether the School possesses other means to obtain relevant evidence of the misconduct;
  - h) Whether the complaint reveals a pattern of conduct at a particular location or by a particular individual and group of individuals; and
  - i) The accused's right to receive information about the allegations if the information is maintained by the University as an "education record" under the Family Educational Rights and Privacy Act (FERPA), if applicable.
3. Even if the victim does not wish to file a formal complaint or proceed with an investigation because he or she insists on confidentiality or requests that the complaint not be resolved, Title IX still allows MSM to investigate and take reasonable corrective action in response to the victim's complaint if the Title IX Coordinator or the Deputy Title IX Coordinator determines, subject to the factors listed above, that the School must override the victim's request for confidentiality in order to meet its Title IX obligations. However, these instances will be limited and evaluated on a case-by-case basis. The Title IX Coordinator or Deputy Title IX Coordinator will ultimately inform the victim if the School cannot ensure confidentiality.
4. In an instance where the School must disclose a victim's identity to the accused, the Title IX Coordinator or Deputy Title IX Coordinator will inform the victim prior to making the disclosure.

## **XI. INTERIM AND REMEDIAL MEASURES.**

1. Regardless of whether a victim of sex discrimination, sexual violence or sexual harassment chooses to report the incident or file a formal complaint, the School shall take one or more of the following remedies, as well as other remedies deemed appropriate for each specific case, while keeping the victim's identity confidential:

- a) Providing the victim with a campus security escort to ensure that he or she can move safely between buildings on campus;
  - b) Ensuring that the victim and the accused do not attend the same classes, seminars, functions, meetings, etc.;
  - c) Providing counseling services;
  - d) Providing medical services;
  - e) Providing academic support services, such as tutoring (in cases involving students);
  - f) Arranging for the victim to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the victim's academic records;
  - g) Reviewing any disciplinary actions taken against the victim to see if there is a causal connection between the harassment and the misconduct that may have resulted in the victim being disciplined.
2. The School also reserves the right to suspend the accused or place him/her on administrative leave pending the investigation of the victim's complaint or disciplinary or criminal proceedings. The interim suspension or leave shall become immediately effective without prior notice whenever there is evidence that the continued presence of the student or employee, respectively, at the School poses a substantial and immediate threat to himself or herself, or to others. A student or employee suspended or placed on administrative leave, respectively, on an interim basis under this policy shall be given a prompt opportunity to appear personally before the Title IX Coordinator or Deputy Title IX Coordinator to discuss the following issues only:
  - a) The reliability of the information concerning the Respondent conduct, including the matter of his or her identity; and
  - b) Whether the conduct and surrounding circumstances reasonably indicate that the continued presence of the accused on School premises poses a substantial and immediate threat to himself or herself, or to others.
3. The School may also consider and take interim remedial measures that affect the broader MSM population, including, but not limited to, offering School-wide counseling and training; developing, updating and disseminating materials on sex discrimination or sexual harassment, developing and implementing new policies and complaint procedures; and conducting internal School investigations to assess the effectiveness of the School's efforts to eliminate sex discrimination or sexual harassment and promote an environment free of sex discrimination and harassment.
4. Mediation will not be used to resolve complaints of sexual assault, sexual violence, domestic violence, dating violence, or stalking.

**XII. PROCEDURES FOR INVESTIGATING VIOLATIONS OF THE SEX/GENDER NONDISCRIMINATION AND SEXUAL HARASSMENT POLICY.**

Procedure for investigating allegations of co-worker/employee-on-co-worker/employee sexual harassment or sex discrimination:

1. Upon receipt of complaint of any allegation of sex discrimination or sexual harassment between co-workers or employees, the School will promptly investigate, and take prompt, remedial action to remedy any confirmed conduct in violation of this Policy.

Procedure for investigating allegations of sexual assault, sexual violence, domestic violence, dating violence, stalking or any other Title IX violations not involving co-worker/employee-on-co-worker/employee sexual harassment or sex discrimination:

1. A Title IX/Discrimination Complaint Form will be prepared by the Title IX Coordinator or the Deputy Title IX Coordinator to facilitate the filing of the complaint. This form can be obtained from the Title IX Coordinator (or deputy).
2. Within five (5) days of the filing of a Complaint, the Title IX Coordinator or the Deputy Title IX Coordinator will schedule an individual meeting with the accused (i.e. the Respondent) in order to provide him/her with notice of the complaint, of his/her responsibility to submit a written complaint answer within five (5) days after receipt of the complaint notification. The Title IX Coordinator or the Deputy Title IX Coordinator will also provide the Respondent with a general understanding of the procedures for investigating and resolving complaints of sex discrimination and/or sexual harassment, and identify forms of support or immediate interventions available to him/her, if applicable.
3. The Respondent(s) receiving a copy of a complaint shall, within five (5) days, submit a written complaint answer to the Complainant and the Title IX Coordinator or the Deputy Title IX Coordinator. Such answer shall: (i) confirm or deny each fact alleged in the complaint; (ii) indicate the extent to which the complaint has merit and offer any facts or evidence to disprove the allegations made against him/her; and (iii) indicate acceptance or rejection of any desired redress specified by the Complainant, or outline an alternative proposal for redress.
4. Within five (5) days after receipt of the Respondent's written complaint answer, the Title IX Coordinator or the Deputy Title IX Coordinator will investigate the allegations. If no complaint answer has been received on the fifth (5th) day after notification of the Respondent, the Title IX Coordinator or the Deputy Title IX Coordinator shall send a "Notice Of Nonresponse" to the Respondent and, if an MSM employee is involved, the employee's immediate supervisor. If no answer has been received within five (5) days after issuance of the "Notice Of Nonresponse," the Title IX Coordinator or the Deputy Title IX Coordinator shall begin the investigation and recommend corrective action without the input of the Respondent. A "Notice Of Nonresponse" shall also be sent to the Complainant.
5. Pursuing a complaint under these procedures does not affect a victim's ability to pursue a criminal action against the accused through the criminal justice system. A victim of sexual assault, sexual violence, domestic violence, dating violence, stalking, other sex offense, or any other crime recognized by local, state, or federal law may choose to

pursue a complaint under these procedures, through the criminal justice system, or both simultaneously.

6. A victim of sexual assault, sexual violence, domestic violence, dating violence, stalking, or any other Title IX violation may also choose to file a formal complaint with the U.S. Department of Education's Office of Civil Rights.

*Investigations, Findings of Fact and Recommendations for Corrective Action by the Title IX Coordinator or the Deputy Title IX Coordinator*

1. All Complaints of sex discrimination, sexual violence and sexual harassment will be promptly investigated and appropriate interim measures will be taken as expeditiously as possible. MSM reiterates that it reserves the right to investigate and resolve a Complaint or report of sex discrimination and/or sexual harassment regardless of whether the Complainant ultimately desires the School to pursue the complaint.
2. The amount of time needed to investigate a Complaint will depend in part on the nature of the allegation(s) and the evidence to be investigated (e.g., the number and/or availability of witnesses involved). However, most Complaints will be investigated and resolved within sixty (60) calendar days of the filing of the Complaint, excluding any appeal(s).
3. The parties to the Complaint will each have an opportunity to be heard by the Title IX Coordinator or Deputy Title IX Coordinator during the investigation, and to present witnesses and other evidence to the Title IX Coordinator or Deputy Title IX Coordinator. The investigation may include conducting interviews of the Complainant, the alleged perpetrator, and any witnesses; reviewing law enforcement investigation documents, if applicable, reviewing student and personnel files; and gathering and examining other relevant documents or evidence.
4. When investigating an incident, MSM will make reasonable efforts to protect the rights of both the Complainant and the Respondent. MSM will respect the privacy of the Complainant, the Respondent, and the witnesses in a manner consistent with the School's legal obligations to investigate, to take appropriate action, and to comply with any discovery or disclosure obligations required by law.
5. When investigating a Complaint, MSM will coordinate with any other ongoing School or criminal investigations of the incident.
6. At reasonable times and various stages until the School's final disposition of the investigation, the Complainant(s) and the Respondent(s) will be informed of the status of the investigation.
7. Within sixty (60) days of receipt of the complaint filed to commence institutional disciplinary proceedings, the Title IX Coordinator or the Deputy Title IX Coordinator will provide an Interim Notice of Outcome of the investigation or will advise the parties of the additional estimated amount of time needed for the investigation.
8. In the event the investigation reveals that, by application of the preponderance of evidence standard, it is more likely than not that a Policy Violation (or other inappropriate or unprofessional conduct even if not unlawful), or retaliation occurred, within ten (10) business days following the completion of the investigation, the Title IX Investigator will

**simultaneously** provide the written "Interim Notice of Outcome" to Complainant, Respondent, and appropriate MSM officials for adoption or modification as outlined in Section XIII, below. The Interim Notice of Outcome will include:

- a) The determination of whether the Respondent was found responsible or not responsible for the alleged violations;
  - b) Where applicable, sanction(s) assigned or remedial measures, the due date(s) of the sanction(s), and any available appeal rights and deadlines;
  - c) Any change to the results that occurs prior to the time that such results become final; and
  - d) When such results will become final.
9. Written notice to the appropriate parties relating to discipline, resolutions, and/or final dispositions is deemed to be official correspondence from the School. Disciplinary sanctions imposed may be appealed through the appropriate appeals process depending on the status of the alleged policy violator. MSM will take the appropriate remedial action based on results of the investigation and will follow up as appropriate to ensure that the corrective action is effective.
10. Complainants are encouraged to report any reoccurrences of conduct that were found to violate this policy or any other related concerns.

### **XIII. CORRECTIVE ACTION, SANCTIONS, AND NOTICES OF OUTCOME.**

Where it is determined that it is more likely than not that the Respondent has committed a violation of this Policy, the following guidelines shall apply:

1. **For Respondents Classified as Students:** Sanctions include one or a combination of the following disciplinary actions:
  - a) *Warning*: Verbal notice that violation of specified regulations and/or continuation or repetition of prohibited conduct may be cause for additional disciplinary action;
  - b) *Official Reprimand*: A written notice of reprimand for violation of specified regulations, including a warning that continuation or repetition of prohibited conduct may be cause for additional disciplinary action;
  - c) *Disciplinary Probation*: Exclusion from participation in privileged or extracurricular School-sponsored activities for a specified period of time. Additional restrictions or conditions may also be imposed. Violations of the terms of disciplinary probation, or any other violation of this Code during the period of probation, may result in suspension or expulsion from MSM;
  - d) *Restitution*: Monetary repayment or reimbursement to the School or to an affected party for economic damages resulting from the student's misconduct;

- e) Suspension: Temporary exclusion from MSM premises and other privileges or activities, as set forth in the suspension notice.
- f) Expulsion: Permanent termination of student status, and exclusion from MSM premises, privileges and activities
- g) Other Sanctions: Other sanctions may be imposed instead of, or in addition to, those specified in sections (a) through (f) of this part. For example, community service may also be assigned.

Please note, nothing in the Student Handbook shall prevent the Title IX Investigator from conducting a prompt, fair and thorough investigation into allegations against the Respondent of any Title IX violation, including but not limited to sex discrimination, sexual harassment or sexual violence, or from taking interim measures during the pendency of the investigation, hearing or appeal. In all cases, a preponderance of evidence standard will be applied in determining whether the Respondent is responsible for conduct constituting the Title IX violation.

The Title IX Investigator will submit his/her findings and recommendations for Corrective Actions, and/or sanctions simultaneously to the Complainant, Respondent, and the Associate Dean of Admissions and Student Affairs or his/her designee via an Interim Notice of Outcome. Complainants and Respondents have ten (10) business days from receipt of the Interim Notice of Outcome to file any objections thereto. Objections must be submitted in writing to the Associate Dean of Admissions and Student Affairs or his/her designee.

The Associate Dean of Admissions and Student Affairs or his/her designee shall consider the findings and recommendations of the Title IX Investigator, and any objections filed within ten (10) days of the issuance of the Interim Notice of Outcome by Complainant, Respondent, or any other affected individual, and enter a Final Notice of Outcome within ten (10) business days of receipt of the Interim Notice of Outcome and any objections to same.

- 2. **For Respondents Classified as Resident Physicians:** Sanctions include one or a combination of the following disciplinary actions:
  - a) Notice of Deficiency: The School may issue a written or oral warning to the Resident to give notice that deficiencies exist that are not yet severe enough to require remediation, disciplinary action, or other adverse actions, but that do require the Resident to take immediate corrective action to cure the deficiency;
  - b) Non-Promotion: Resident appointments are for a maximum of twelve (12) months, year-to-year. Where a Resident has demonstrated unsatisfactory performance during an academic year or fails a specific rotation required for promotion, the School may elect to delay a Resident's promotion to the next level;
  - c) Suspension: The School may elect to suspend a Resident from all program activities for a period of time when it has determined that a Resident's

performance or behavior does not appear to be in the best interests of the patients or other medical staff. Depending on the circumstances surrounding the suspension, it may be paid or unpaid;

- d) Non-Renewal of Appointment: The School may elect to not re-appoint a Resident for the next academic year if it determines that a Resident's performance does not meet the School's academic or professional standards, or the requirements of the Program, the Residency Review Committee Program, GME, or the Specialty Board;
- e) Restitution: Monetary repayment or reimbursement to the School or to an affected party for economic damages resulting from the Resident's misconduct;
- f) Other Sanctions: Other sanctions may be imposed instead of, or in addition to, those specified in sections (a) through (e) of this part. For example, community service or additional training may also be assigned.

Please note, nothing in the Graduate Medical Education ("GME") Policy Manual shall prevent the Title IX Coordinator or Deputy Title IX Coordinator from conducting a prompt, fair and thorough investigation into allegations against the Respondent of any Title IX violation, including but not limited to sex discrimination, sexual harassment or sexual violence, or from taking interim measures during the pendency of the investigation, hearing or appeal. In all cases, a preponderance of evidence standard will be applied in determining whether the Respondent is responsible for conduct constituting the Title IX violation.

The Title IX Investigator will submit his/her findings and recommendations for Corrective Actions, and/or sanctions simultaneously to the Complainant, Respondent, and the Associate Dean of Graduate Medical Education and ACGME Designated Institutional Official or his/her designee via an Interim Notice of Outcome. Complainants and Respondents have ten (10) business days from receipt of the Interim Notice of Outcome to file any objections thereto. Objections must be submitted in writing to the Associate Dean of Graduate Medical Education and ACGME Designated Institutional Official or his/her designee.

The Associate Dean of Graduate Medical Education and ACGME Designated Institutional Official or his/her designee shall consider the findings and recommendations of the Title IX Investigator, and any objections filed within ten (10) days of the issuance of the Interim Notice of Outcome by Complainant, Respondent, or any other affected individual, and enter a Final Notice of Outcome within ten (10) business days of receipt of the Interim Notice of Outcome and any objections to same.

3. **For Respondents Classified as Faculty:** The Respondent shall be subject to the investigation authority of the Title IX Coordinator or Deputy Title IX Coordinator in addition to the procedures outlined in Appendix III of the Faculty Bylaws, and to sanctions up to and including termination.

Nothing in the Faculty Bylaws shall prevent the Title IX Coordinator or Deputy Title IX Coordinator from conducting a prompt, fair and thorough investigation into allegations against the Respondent of any Title IX violation, including, but not limited to, sex

discrimination, sexual harassment or sexual violence, or from taking interim measures during the pendency of the investigation, hearing or appeal. In all cases, a preponderance of evidence standard will be applied in determining whether the Respondent is responsible for conduct constituting the Title IX violation.

The Title IX Investigator will submit his/her findings and recommendations for Corrective Actions, and/or sanctions simultaneously to the Complainant, Respondent, and the Vice President and Executive Vice Dean of Research and Academic Administration or his/her designee via an Interim Notice of Outcome. Complainants and Respondents have ten (10) business days from receipt of the Interim Notice of Outcome to file any objections thereto. Objections must be submitted in writing to the Vice President and Executive Vice Dean of Research and Academic Administration or his/her designee.

The Vice President and Executive Vice Dean of Research and Academic Administration or his/her designee shall consider the findings and recommendations of the Title IX Investigator, and any objections filed within ten (10) days of the issuance of the Interim Notice of Outcome by Complainant, Respondent, or any other affected individual, and enter a Final Notice of Outcome within ten (10) business days of receipt of the Interim Notice of Outcome and any objections to same.

4. **For Respondents Classified as MSM Staff Employees:** The Respondent shall be subject to disciplinary action, suspension, and termination as provided in the Discipline and Corrective Action Policy in the HR Policy Manual. Nothing in the HR Policy Manual shall prevent the Title IX Coordinator or Deputy Title IX Coordinator from conducting a prompt, fair and thorough investigation into allegations against the Respondent of any Title IX violation, including but not limited to sex discrimination, sexual harassment or sexual violence, or from taking interim measures during the pendency of the investigation, hearing or appeal. In all cases, a preponderance of evidence standard will be applied in determining whether the Respondent is responsible for conduct constituting the Title IX violation.

The Title IX Investigator will submit his/her findings and recommendations for Corrective Actions, and/or sanctions simultaneously to the Complainant, Respondent, and the Associate Vice President of Human Resources or his/her designee via an Interim Notice of Outcome. Complainants and Respondents have ten (10) business days from receipt of the Interim Notice of Outcome to file any objections thereto. Objections must be submitted in writing to the Associate Vice President of Human Resources or his/her designee.

The Associate Vice President of Human Resources or his/her designee shall consider the findings and recommendations of the Title IX Investigator, and any objections filed within ten (10) days of the issuance of the Interim Notice of Outcome by Complainant, Respondent, or any other affected individual, and enter a Final Notice of Outcome within ten (10) business days of receipt of the Interim Notice of Outcome and any objections to same.



#### **XIV. TITLE IX APPEALS/GRIEVANCE PROCEDURES.**

For purposes of this Policy Section, a "Title IX Grievance" is a complaint concerning any perceived Title IX violation resulting from an MSM policy, practice or procedure. Any member of the MSM Community may file a written Title IX Grievance at any time.

For purposes of this Policy Section, a "Title IX Appeal" is an appeal by an affected individual to a decision in an Interim or Final Notice of Outcome resulting from a Title IX Complaint Investigation or Hearing.

##### **First level Appeals/Grievances:**

As outlined above, the Title IX Investigator will simultaneously forward the Interim Notice of Outcome to the Complainant, Respondent, and: (i) the Associate Vice President of Human Resources or his/her designee (for Staff decisions or decisions affecting other members of the MSM Community (vendors, visitors, applicants, etc.); (ii) the Vice President and Executive Vice Dean of Research and Academic Administration or his/her designee (for Faculty decisions); (iii) the Associate Dean of Graduate Medical Education and ACGME Designated Institutional Official or his/her designee (for Resident Physician decisions); or (iv) the Associate Dean of Admissions and Student Affairs or his/her designee (for Student decisions). Complainants and Respondents have ten (10) business days from receipt of an Interim Notice of Outcome to object to the findings or recommendations contained therein.

The appropriate designated official will review and consider the Interim Notice of Outcome, as well as any Complainant or Respondent objections to same, and issue a Final Notice of Outcome within the timeframe set forth herein which may adopt, reject, or modify the Interim Notice of Appeal.

For all first level appeals and grievances, the President and Dean will select and designate two (2) independent senior-level members of the MSM Community to monitor and oversee the review process conducted by the appropriate designated official.

##### **Second Level Appeals/Grievances:**

Appeals to the Final Notice of Outcome must be filed within ten (10) business days of receipt with the Chief Compliance Officer and may only be brought on one or more of the following three (3) grounds:

- i. To determine whether there was a material deviation from the substantive and procedural protections provided in the complaint proceedings;
- ii. To determine whether the final decision was based on substantial evidence or information; or
- iii. To consider new information sufficient to alter the decision or relevant facts not brought out in the investigation or hearing.

All grievances and appeals of Final Notice of Outcome must be submitted in writing, and must include the following information:

1. The name, address, and signature of the Grievant or Appellant;
2. A sufficient description of the issue on appeal (material deviation from substantive/procedural compliant proceedings; failure to base final decision on

substantial evidence/information; or new issue or information sufficient to alter the decision) or the allegedly improper policy, practice or procedure resulting in a Title IX violation;

3. The identity of additional witnesses or affected individuals.
4. Attach and/or identify any other documents, facts, or evidence that MSM should consider in reviewing the grievance or appeal.

An appellant is not required to re-submit any documents or information that MSM already has in its possession as a result of its original Title IX investigation.

The Chief Compliance Officer will investigate the appeal, including, but not limited to, review of the grounds for appeal and evidence submitting, seeking the opinion of the Title IX Coordinator's office regarding whether and why the policy, practice, or procedure being grieved or the decision being appealed complies with Title IX, or if not, what, if any, steps should be taken to bring the policy, practice, procedure or decision into compliance with Title IX. The Chief Compliance Officer may also conduct a follow-up conference or hearing with the appellant or other affected individuals or interested parties. The Chief Compliance Officer will, within sixty (60) days of receipt of the appeal, issue a Notice of Appeal Determination either affirming, modifying, or reversing the decision being appealed, or the policy/practice/procedure being grieved. The Notice of Appeal Determination is final and non-appealable.