



Policy on Title IX Sexual Misconduct and Harassment

Messenger College Title IX Policy

Policy Effective Date:
August 2023

Policy Owner:
President's Cabinet

Policy Author:
Samuel Kinnin, Director
of Student Development

Affected Parties:
Undergraduate
Faculty
Staff
Other

Policy Outline:
1.0 Purpose & Scope
2.0 Title IX Coordinator
3.0 Title IX Misconduct
 Offenses
4.0 Reporting a Sexual
 Misconduct Offense
5.0 Procedures for Title
 IX Cases
6.0 Definitions
7.0 Title IX Training,
 Prevention, and
 Awareness

1.0 Purpose and Scope

Messenger College is committed to maintaining an environment free from sexual misconduct, harassment, and discrimination for our community. Messenger College strives to ensure the safety and a positive learning environment for all students and staff members. The Title IX Sexual Misconduct and Harassment Policy is meant to promote and ensure a safe living and learning environment for all members of our campuses.

The Messenger College Title IX Sexual Misconduct and Harassment Policy prohibits any sexual misconduct including sexual assault, sexual violence, sexual harassment, sexual discrimination, domestic or dating violence, stalking, sexual exploitation, retaliation, and sexual misconduct outlined in the Definitions section of this policy in order to promote a safe environment for all members of our campus community, but not limited to, Title IX of the Education Amendments of 1972, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, the Violence Against Women Reauthorization Act of 2013 ("VAWA"); the Title VII of the Civil Rights Act of 1964, and the Campus Sexual Violence Elimination (SAVE) Act.

The Title IX Sexual Misconduct and Harassment Policy apply to the Messenger College on campus community or in a program or activity. This policy does not apply to sexual harassment that occurs off-campus, in a private setting, and not part of the college's education programs or activities. Our community is encouraged to report any sexual misconduct on or off campus. Messenger College implements internal policies and procedures that provide fairness and equality in all aspects of our educational program to ensure compliance with federal and state laws. The college implements and provides fair and an impartial process for those involved in an allegation of sexual misconduct or retaliation.

Messenger College does not discriminate on the basis of color, gender, ethnicity, nationality, race, disability, age, marital, or veteran status in any of its policies, procedures, or practices, including those specifically relating to Messenger College admissions. The college prohibits any form of sexual harassment on the part of its students and employees.



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2.0 Title IX Coordinator

The Director of Student Development serves as the Title IX Coordinator and ensures Messenger College is in compliance with Title IX. The Title IX Coordinator will be informed of all complaints or reports of violations of the college's Title IX Sexual Misconduct and Harassment Policy and follows all Title IX rights and local, state, and federal laws. The Title IX Coordinator activities include, but not limited to, the following:

- Communicating with Messenger College's community regarding the revised Title IX Sexual Misconduct and Harassment Policy, Title IX, and providing additional information regarding personal rights.
- Overseeing the training and revision of Title IX policies, including record keeping, and other procedural requirements relating to this policy.
- Responding in accordance with the procedures set forth in this policy to any complain or report received regarding conduct that may be in violation to this policy.

The Title IX Coordinator is supervised directly by the President of the college and advised by the President's Cabinet concerning policies and procedures. The Title IX Coordinator's contact information is:

Samuel Kinnin, Director of Student Development

Title IX Coordinator

Email: skinnin@messengercollege.edu

Phone: 817-554-5950 ext. 103



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3.0 Title IX Sexual Misconduct Offenses

This policy addresses Title IX Sexual Misconduct and Harassment, which encompasses all of the prohibited conduct described below that, occurs on the basis of sex and meets all of the following requirements:

- Occurs within the United States; and
- Occurs within Messenger College's education program or activity; and
- At the time of filing a formal complaint, a complainant is participating in or attempting to participate in the education program or activity of Messenger College.

Quid Pro Quo Sexual Harassment: Unwelcome conduct of an employee of the college, who conditions the provision of an aid, benefit, or service of the college (implicitly or explicitly), on an individual's participation in unwelcome sexual activity.

Sexual Harassment: Sexual harassment is any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- Submission to, or rejection of, such conduct is made implicitly or explicitly a term or condition of instruction, employment, or participation in any college activity or benefit;
- Submission to, or rejection of, these behaviors by an individual is used as a basis for evaluation in making academic or personnel decisions; and
- These behaviors are sufficiently severe and/or pervasive to have the effect of unreasonably interfering with an individual's educational experience, working conditions, or living conditions by creating an intimidating, hostile, or offensive environment.

Sexual Assault: Any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent. Title IX regulations have adopted the following types of sexual assault (consistent with Clery Act reporting):

- Rape: penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.
- Fondling: intentionally touching of the private body parts of another person without consent. Fondling may be over or under clothing, and may include the Respondent touching the Complainant, the Respondent making the Complainant touch the Respondent or another person, or the Respondent making the Complainant touch the Complainant's own body.
- Incest: occurs between persons who are related to each other within the degrees wherein marriage is prohibited by law. It includes penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person.



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Sexual Assault: Any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent. Title IX regulations have adopted the following types of sexual assault (consistent with Clery Act reporting):

- Statutory Rape: sexual intercourse with a person who is under the statutory age of consent.

Domestic Violence: This may include violent acts by a current or former spouse; by a person with whom the victim shares a child in common; by a person who is or has cohabitated with the victim as a spouse; by a person situated to a spouse; between a parent and child; between members of the same household in an intimate relationship; or by any other person similarly situated. Domestic violence can be physical, sexual, emotional or economic in nature.

Dating Violence can be violence or abusive behavior used by one partner to gain or maintain control over another partner. It can be violence committed by a person who is or has been in a social, romantic or intimate relationship with the victim. The existence of such a relationship will be determined by factors such as the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved.

Stalking is unwanted or obsessive attention by an individual or group toward a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or to suffer substantial emotional distress. Stalking may include the monitoring of an individual online or involve the use of social media, email or other technology. It may also include unwanted observation or surveillance.

3.2 Retaliation

Retaliation is a person's adverse action against another person because they have filed a complaint or participated in providing relevant information an investigation. Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. All appropriate and available steps will be taken to protect individuals who fear they may be subjected to retaliation.

Online Sexual Harassment and/or Retaliation: Messenger College's policies are written and interpreted to include online behaviors prohibited in this policy, when those behaviors occur in or have an effect on the college's education program and activities or use college networks, technology, or equipment. Although we may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported, we will engage in a variety of means to address and mitigate the effects. Members of the community are to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via social media, unwelcome sexual or sex-based messaging, distributing or threatening to distribute revenge pornography, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the Messenger College Community.



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4.0 Reporting a Sexual Misconduct Offense

Messenger College encourages individuals to report sexual harassment offenses to the Title IX Coordinator and/or appropriate law enforcement Officials. Messenger College will act on any formal or informal notice of a sexual harassment violation that is received by the Title IX Coordinator by applying the procedures outlined in the section. If it is determined that the complaint falls under Title IX jurisdiction, the coordinator will apply procedures outlined in this policy.

To file a formal complaint please fill out this form:

<https://messengercollege.populiweb.com/router/forms/respond/g02843a95402f74060f476ab50047e05441890a58d284ae34760d2090bbbe3f3959b29c909cb00c6cd1f83329aea8a5ea77cd43b73891e004d8502b288ae5802864fb8ccec3a2ff1ed7554205700ee494cf0be32f0fdb3582ae067fc698a9f841fc3bff8f4e1234b7043c034ac4>

If the alleged sexual harassment falls outside of Messenger College property or a college function, other disciplinary procedures can be implemented.

There are three ways that reports of sexual misconduct and sexual harassment can be made: 1) reporting to Confidential Sources; 2) reporting to Mandatory Reporters; and 3) reporting directly to the Title IX Coordinator or another official listed below as having authority to institute corrective measures.

Confidential Sources: If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with:

- Lynnea Martinez, Campus Pastor-
lmartinez@messengercollege.edu
- Meredith Ivey, LPC (Counseling Chair) –
mivey@messengercollege.edu
- Off-Campus:
 - Licensed professional counselors
 - Local rape crisis counselors
 - Local or state assistance agencies
 - Clergy/Chaplains

Messenger College employees will maintain confidentiality except in extreme cases of immediate threat or danger, or abuse of a minor.

Mandatory Reporters: All Messenger College employees listed in section 4.1 are mandatory reporters required to immediately report actual or suspected sexual misconduct. Any report of sexual misconduct made to any of the Mandatory Reporters listed in section 4.1 must then be reported by that Mandatory Reporter under Texas law to one of the officials with authority to institute corrective measures. These “mandatory reporters” include all faculty, adjunct faculty, full-time staff members, non-student worker part-time staff members, and student workers employed by Messenger College, resident assistances, and resident directors. State law requires mandatory reporting and violations could carry a criminal penalty.

Failure of a non-confidential employee, as described in this section, to report an incident or incidents of sexual misconduct of which they become aware is a violation of Messenger College policy and will be subject to disciplinary action for failure to comply with the colleges polices.



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Emergency Reporting: In emergency situations, if there is a suspected crime in progress or imminent or serious threats to the safety of anyone, employees must immediately contact the police department by dialing 911.

Supportive Measures: The Title IX Coordinator will offer and implement reasonable supportive measures to the parties upon notice of alleged sexual harassment and/or retaliation. Supportive measures are non-disciplinary, non-punitive services offered as appropriate, reasonably available to the parties to respond or preserve access to Messenger College's education program or activity and/or deter sexual harassment. These measures, may include, but not limited to:

- Addition education for the campus community.
- Referral to counseling
- Altering work arrangements for students or employees (on campus)
- Increase security measures
- Providing campus escorts
- Implementing contact limitations between the parties.
- Offering adjustments to academic deadlines and schedules, chapel attendances, etc.
- Timely Warnings, if required.

When a Complainant Does not Wish to Proceed: If a Complainant does not wish for their name to be shared, an investigation to take place, or want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator. The coordinator will evaluate the request in light of the duty to ensure the safety of the campus and to comply with state or federal law. The Title IX Coordinator has ultimate discretion over whether the college proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process upon completion of a violence risk assessment.

Supplemental/Alternative Avenues for Complaints In addition to, or in lieu of, the Messenger College procedures, individuals may pursue remedies, as appropriate, through the Office for Civil Rights of the U.S. Department of Education. We encourage victims of sexual violence, including rape, sexual assault, sexual battery, stalking, and dating and domestic violence, to exercise their right to file a complaint with the Title IX Coordinator office if the crime occurs on Messenger College property, regardless of the status of the complainant. For crimes occurring away from Messenger College's property, victims may contact the local law enforcement in the appropriate jurisdiction.

4.1 Responsible Employee Reporting

Responsible employees include all Messenger College officials who have authority to institute corrective measures in response to a report of Title IX



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Sexual Misconduct and Sexual Harassment. A responsible employee who receives notice of behavior that might reasonably be construed, as constituting Title IX Sexual Misconduct and Sexual Harassment must promptly report the alleged behavior to the Title IX Coordinator. A responsible employee who receives notice of an alleged Title IX Sexual Misconduct and Sexual Harassment and fails to report it to the Title IX Coordinator may be subject to discipline up to and including termination.

Responsible employees under this section include college administrators, supervisors, employees with instructional responsibilities (for their respective teaching obligation), academic advisors, and other college employees who have significant responsibility for student and campus activities or implementing the college's policies related to employee and student discipline. Messenger College has designated several offices on campus as confidential resources.

To file a formal complaint please fill out this form:

<https://messengercollege.populiweb.com/router/forms/respond/g02843a95402f74060f476ab50047e05441890a58d284ae34760d2090bbe3f3959b29c909cb00c6cd1f83329aea8a5ea77cd43b73891e004d8502b288ae5802864fbf8cc3a2ff1ed7554205700ee494cf0be32f0fdb3582ae067fc698a9f841fc3bfff8f4e1234b7043c034ac4>

5.0 Procedures of Title IX Cases

Messenger College prohibits Title IX Sexual Misconduct and Harassment as defined by the federal regulations of the United States Department of Education. In compliance with the Department of Education's regulations, Messenger College has implemented a grievance procedure for the resolution of formal complaints that includes notice to all parties, prompt and impartial investigations, and live hearings that include an opportunity for cross-examination by advisors. The college also requires those designated as official of authority to promptly report any violation or alleged violation of this policy.

This policy applies to all levels and areas of Messenger College operations and programs, to undergraduate students, administrators, faculty, staff, volunteers, and contractors. Complainants who are participating in, or attempting to participate in, Messenger College's programs and activities may file a formal complaint alleging conduct prohibited under this policy by undergraduate students, administrators, faculty, staff, volunteers, and contractors. The procedures for investigating and resolving formal complaints depend on the Respondent's relationship to the college, and specifically whether the Respondent is a student or an employee. Both sets of procedures follow the same general guiding principles. At the minimum, the procedures:

Investigation

Upon receiving notice from the Title IX Coordinator, Messenger College will commence an investigation into the allegations involved. During this investigation process, Messenger College will attempt to interview both the compliant and respondent and any witnesses who may have information about the incident(s) in question. The Title IX Coordinator is not permitted to serve as an investigator. The responsible parties will have a reasonable time period before their interview to prepare; in most



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cases, this time period will be a two day notice, unless the party requests additional time to prepare, which Messenger College will take into consideration in scheduling interviews. Each party may select an advisor of his/her choice who may accompany him/her to any investigative meeting, but the advisor will not participate in such meeting.

The conclusion of the investigation will include the written report from the college's investigators. This report will include all evidence directly related to the allegations in the case to the Title IX Coordinator, the complainant, the respondent, and their respective Advisors (if any). The Title IX Coordinator will provide the parties with a notice of the time, date, and location of the hearing in the case. Either party may provide a written response to the report by contacting the Title IX Coordinator within 10 days of receiving the report. Any written response received by a party will be considered by the college's investigators, who may alter the Report and/or append the response(s), the college's investigator(s) will provide the Final Report to the Title IX Coordinator, the parties, and their Advisors.

Right to an Advisor

Each party may have an Advisor of their choice present with them for all meetings, interviews, and hearings. Parties may select whomever they wish as their Advisor as long as the Advisor is eligible and available. The law permits one advisor for a complainant and one for the respondent.

The advisor may be a friend, mentor, family member, attorney, or any other individual a party chose to advise, support, and/or consult with them throughout the resolution process. Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, however during a hearing, they will need an advisor for the hearing.

Hearing

A formal hearing will be scheduled as soon as the college's investigation report is received, and all parties have had the requisite time to review this Report and provide additional written comments.

For Standard cases, the following individuals will make up the hearing panel, and will serve as adjudicators for these cases:

- Cases where the Respondent is a Student:
 - A student development staff representative, a member from the President's Cabinet, and a deputy Title IX Coordinator for Students
- Cases where the Respondent is an Employee:
 - Title IX Coordinator, a member from the President's Cabinet, and Vice President of Academic Affairs

Hearings will be held in-person unless under extenuating circumstances a virtual hearing will take place. Both parties will be given the opportunity to make an opening statement and their advisors will be given the opportunity to present witnesses and cross-examine all opposing parties or witnesses. A party may not be present in the same room while the other party is presenting his/her testimony. Hearing Panel members will also be given the opportunity to ask questions of all witnesses. As mandated by Title IX regulations, the statements of any party who is not willing to submit to a



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cross-examination will not be considered by the hearing panel when making its decision on responsibility. However, the Hearing Panel will not draw any adverse inference based on the mere fact that an individual refused to submit to cross-examination.

At the conclusion of the hearing, the Hearing Panel will deliberate and make a ruling as to whether, under clear and convincing evidence standard, the respondent violated this policy. If a violation is deemed to have occurred, Messenger College will also issue appropriate remedies and sanctions against the respondent.

After making these rulings, the Title IX Coordinator will, within five (5) business days, prepare a written determination that details: a) the allegations at issue; b) a description of the procedural steps taken throughout the case; c) findings of fact supporting the determination; d) conclusions regarding application of the MC Sexual Misconduct and Harassment policy; e) a statement as to the determination for each allegation; f) a statement of any disciplinary sanctions and whether any remedies will be provided to the complainant; and g) a description of the procedures and permission grounds for appeal. This written determination will be given by email to both parties and will also be provided to, the parties' Advisors (if any), any additional consultants for the parties, and the President of Messenger College.

The recording of the hearing will be transcribed within a reasonable time and made available to the parties and their Advisors. The investigation and hearing procedures will be completed within a reasonable time, unless extenuating circumstances require additional time in which all parties will be notified.

Appeal

Within ten (10) days of the issuance of the written determination, either party may request an appeal in writing to the Title IX Coordinator based on one or more of the following reasons: a) procedural irregularity; b) new evidence exists which was not available at the hearing; or c) conflict of interest/bias. Additionally, the President of the college may choose to institute an appeal after additional findings and review of the hearing proceedings. If an appeal is requested by the complainant, respondent or the President of the College, all parties will receive written notification of the appeal and be given opportunity to respond in writing. Both the complainant and respondent will be given written notice at least three (3) business days before the hearing of the date, time, and location of the appeals hearing. Using a clear and convincing evidence standard, Messenger College will after hearing all evidence, make a ruling as to whether a violation of this policy occurred and, if applicable, issue sanctions. In making this ruling and issuing sanctions may sustain the ruling and/or sanctions set forth by the President of the college, but will also have the discretion to overturn such ruling and/or sanctions and issue his/her own ruling or sanctions.



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After the decisions of these rulings, the Title IX Coordinator will, within have five (5) business days, prepare a written determination that details: a) the allegations at issue; b) a descriptions of the procedural steps taken throughout the case; c) findings of fact supporting the determination; d) conclusions regarding application of the Title IX Sexual Misconduct and Harassment Policy; e) a statement and rationale as the determination for each allegation; and f) a statement of any disciplinary sanctions and whether any remedies will be provided to the complainant. This written determination will be given to the complainant, respondent, the parties' Advisors (if any), and the President of the college. This ruling and sanctions, if applicable, will be final and will not be appealable.

Reporting

The President of Messenger College may provide the Board of Governors with a report on any proceedings involving a formal complaint as outlined in this Section. The report will be kept strictly confidential by all Board members and is meant to give the Board broad oversight of Messenger College's Title IX procedures to ensure that this policy is in compliance to local, state, and federal regulations and laws and to ensure procedures are handled in a way that promotes a safe and Christ-like atmosphere.

Messenger College must also statistically report the occurrence of on campus major violent crimes, including certain sexual misconduct offenses, in the "Annual Security and Fire Safety Report" of campus crime statistics. This report does not include personal identifiable information. The state law requires that the Title IX Coordinator provide the President with a report every three months on Title IX case information and to the Board of Governors. These reports will be posted on the college's website.

As mandated by state law, Messenger College will, on request by another postsecondary educational institution, provide to the requesting institution information relating to the determination by Messenger College that a student enrolled at MC violated the Title IX Sexual Misconduct Policy by committing sexual harassment, sexual assault, dating violence, or stalking.

If Messenger College becomes aware of a serious and continuing threat to the campus community, a timely notification to protect the safety of the community will be issued. The college may be required to disclose a reported incident of sexual misconduct in the daily crime log, annual security and fire safety report, or as otherwise required under state or federal law.

Procedures for Texas Law Cases can be outlined in section 5.0 and will be used in cases in which the alleged conduct, geography of the incident, and parties meet the scope requirements outlined in section 1.0 for Texas Law Cases.



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5.1 Procedures in cases where the Complainant does not file a formal complaint or wishes to remain Anonymous

If the complainant alleges sexual misconduct but does not wish to pursue a formal complain and/or requests that his or her complain remain anonymous, federal and state laws may never the less require the college to investigate and take reasonable action in response to the complainant's request. The Title IX Coordinator will inform the complainant that the college's ability to respond may be limited if the complainant is not a participate in the investigation. Federal and state law requires the college to evaluate the complainant's request that the complaint not be subject to a formal hearing or remain anonymous in the context of the college's commitment to provide a safe and healthy environment for all students. In order to protect and ensure the safety of Messenger College's campus community, the Title IX Coordinator may investigate allegations of violations of this policy even absent the filing of a formal complaint or report, or if a complaint or report has been withdrawn. After reviewing the alleged incident(s), the Title IX Coordinator and the President's cabinet will meet to determine if the allegations involves such a significant risk to the safety of the overall community that they feel it is necessary to initiate formal complaint procedures on their own motion to protect the community at large. The serious of the alleged incident, regardless if the institution has received other reports of sexual misconduct by the Respondent, or if the alleged incident poses a risk of harm to others. The risk of Messenger College's campus community will be present in cases indicating pattern, predation, threat, weapons, and/or violence.

If it is decided that the allegations involves such a significant risk to the safety of the community that it is necessary to initiate formal complain procedures, then the Title IX Coordinator will institute the formal complaint procedures outline in section 3.0, 4.0, and 5.0 of this policy as deemed necessary. If it is determined that the allegation does not involve a significant risk to the safety and the overall community, the Title IX Coordinator may close the case, and will create a record for the college's Title IX files detailing why this decision was made and how it was not clearly unreasonable under Title IX standards.

6.0 Definitions

For purposes of this policy, the below definitions apply. However, some of these terms are also defined under federal and/or Texas State law.

- Actual Knowledge: Information given to or notice of any sexual misconduct or allegations to the Title IX Coordinator or staff member.
- Coercion: Coercion is the use of an unreasonable amount of pressure, intimidation, manipulation, unwanted contact, threats of physical, emotional, or other harm to compel someone to engage in sexual conduct.



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- Complainant: This term refers to the individual(s) who has been the subject of prohibited conduct regardless of whether that individual makes a complaint or seeks disciplinary action.
- Confidential Resource: Messenger College employees who are professional licensed counselors or pastoral counselors, acting within their license and role, are not required to report any information disclosed about an incident to the Title IX Coordinator without permission.
- Consent: This term requires words or actions that show voluntary willingness or agreement to engage in a mutually agreed upon sexual activity. Consent is voluntary and sober. Consent is not present when one is incapable of consent due to reasons of intoxication due to drugs or alcohol, sleep, mental or physical helplessness, unconsciousness, incapacitation, or lack of awareness that sexual activity is taking place. Submission to conduct does not mean the conduct was welcome or consensual; in other words, the absence of "no" does not mean, "yes." An individual who has consented to certain sexual activities in the past does not mean that that person is consenting to sexual activity at the present.
- Dating Violence can be violence or abusive behavior used by one partner to gain or maintain control over another partner. It can be violence committed by a person who is or has been in a social, romantic or intimate relationship with the victim. The existence of such a relationship will be determined by factors such as the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved.
- Domestic Violence: This may include violent acts by a current or former spouse; by a person with whom the victim shares a child in common; by a person who is or has cohabitated with the victim as a spouse; by a person situated to a spouse; between a parent and child; between members of the same household in an intimate relationship; or by any other person similarly situated. Domestic violence can be physical, sexual, emotional or economic in nature.
- Force is the use or threat of physical violence or intimidation to impose upon an individual's freedom of will to choose to participate or not in sexual contact or using one's strength to gain sexual access.
- Formal Complaint: A document filed by a complainant (document or electronic submission) that contains a complainant's physical or digital signature, or otherwise indicates that the complainant is the individual filing the formal complaint alleging Title IX Sexual Misconduct/Harassment against a respondent and requesting that Messenger College investigate the allegations of Title IX Sexual Harassment. A formal complaint must be filed with the college's Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information provided in this policy, and by any additional method identified in this policy.
- Incapacitation: The inability, temporarily or permanently, to give consent because the individual is mentally and/or physically helpless, either voluntarily or involuntarily, or the individual is



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unconscious, asleep, or otherwise unaware that the sexual activity is occurring. An individual is incapacitated if they demonstrate that they are unaware of where they are, how they got there, or why or how they became engaged in a sexual interaction. Some indicators of incapacitation may include, but not limited to, lack of control over physical movements, lack of awareness or circumstances or surroundings, or the inability to communicate for any reason. It is important that anyone engaging in sexual activity be likewise, inducing incapacitation for sexual purposes is a violation of this policy. Inducing incapacitation for sexual purpose including using drugs, alcohol, or other means with the intent to affect or having an actual effect on the ability of an individual to consent or reuse to consent (as "consent" is defined in this Policy) to sexual contact.

- Non-Violent Sexual Contact: Any sexual touching that occurs without consent and which does not fall within the definition of sexual violence. Examples of other non-consensual sexual contact may include the following: genital or oral-genital contact not involving penetration; contact with breasts, buttocks, or genital area, including over clothing; removing the clothing of another person; and kissing.
- Official with Authority: Messenger College administrators who have the authority to institute corrective measures on behalf of the college.
- Party or Parties: Referring to the complainant(s) and the respondent(s).
- Preserving Evidence An individual who experiences any form of sexual assault is *strongly encouraged* to seek immediate medical care at a hospital or other medical facility that provides services for victims of sexual assault. Individuals can undergo a medical exam to properly collect and preserve physical evidence of the sexual assault with or without the police's involvement. It is important to preserve forensic and other physical evidence that may assist in proving the alleged criminal offense occurred and such evidence may be helpful in obtaining a protection order against the respondent. Therefore, a medical exam should be performed immediately after the event, if possible. With the individual's consent, the physical evidence collected during this medical exam can be used as part of a criminal investigation.
- Respondent: The individual(s) who has been alleged to be the perpetrator of conduct that could constitute Title IX Sexual Misconduct/Harassment.
- Retaliation: Retaliation is a person's adverse action against another person because they have filed a complaint or participated in providing relevant information an investigation. Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. All appropriate and available steps will be taken to protect individuals who fear they may be subjected to retaliation.
- Sex Discrimination: Sex discrimination is adverse treatment of an individual based on biological sex, rather than individual merit. Examples of conduct that can constitute sex discrimination because of sex include, but are not limited to:



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- Singling out or targeting an individual for different or adverse treatment (e.g., more severe discipline, lower salary increase);
- Failing or refusing to hire or allow participation by an individual in a College activity;
- Terminating or removing an individual from employment or an educational program; or
- Verbally harassing, abusing, or demeaning a targeted individual with conduct designed to impact that individual adversely.
- Sexual Exploitation: Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited, and that behavior does not otherwise constitute one of the preceding sexual misconduct offenses. Examples of behavior that could rise to the level of sexual exploitation include:
 - Visual (e.g., video, photograph) or audio-recording of sexual activity;
 - Producing, obtaining and/or distributing photos, videos, other images, or information of an individual's sexual activity, intimate body parts, or nakedness;
 - Exceeding the boundaries of consent;
 - Engaging in non-consensual voyeurism;
 - Knowingly transmitting a sexually transmitted infection (STI), such as HIV, to another without disclosing your STI status;
 - Exposing one's genitals in non-consensual circumstances, or inducing another to expose his or her genitals; and
 - Distributing or forcing others to view pornography.
- Sexual Harassment: Sexual harassment is any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
 - Submission to, or rejection of, such conduct is made implicitly or explicitly a term or condition of instruction, employment, or participation in any College activity or benefit;
 - Submission to, or rejection of, these behaviors by an individual is used as a basis for evaluation in making academic or personnel decisions; and
 - These behaviors are sufficiently severe and/or pervasive to have the effect of unreasonably interfering with an individual's educational experience, working conditions, or living conditions by creating an intimidating, hostile, or offensive environment.
- Sexually Inappropriate Conduct: Unwelcome sexual conduct that may not rise to the level of sexual harassment or sexual exploitation, but that is sexual in nature, is also prohibited under this policy. Examples include, but are not limited to, lewdness and obscene or sexually offensive gestures and comments.
- Sexual Violence The following behaviors constitute sexual violence and are prohibited under this policy. All forms of sexual violence are serious offenses and will result in College discipline. Sexual violence involving force, duress, or inducement of incapacitation, or where the perpetrator has deliberately taken advantage of another



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person's state of incapacitation, will be deemed especially egregious and may result in expulsion or termination of employment. The consumption of alcohol or use of illegal substances will not ordinarily constitute a mitigating factor or circumstance when it contributes to, or is involved in, an alleged act of sexual violence.

- Non-Consensual Sexual Penetration: Any act of vaginal or anal penetration by a person's penis, finger, other body part, or an object, or oral penetration by a penis, without consent
- Forceful Non-Consensual Sexual Contact: Any sexual touching other than non-consensual sexual penetration that occurs without consent and is the result of coercion, force, or incapacitation. Examples of forceful non-consensual sexual contact may include the following when it is a result of coercion, force, or incapacitation: genital or oral-genital contact not involving penetration; contact with breasts, buttocks, or genital area, including over clothing; removing the clothing of another person; and kissing.
- Stalking is unwanted or obsessive attention by an individual or group toward a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or to suffer substantial emotional distress. Stalking may include the monitoring of an individual online or involve the use of social media, email or other technology. It may also include unwanted observation or surveillance.
- Third Party: Any individual who is not a college student or employee of the college.

Additional definitions regarding state and federal laws can be found here:

- [Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1688 and its implementing regulations, 34 C.F.R. Part 106](#)
- [Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§2000e-2000e-17 and its implementing regulations 29 C.F.R. §1604 11.](#)
- [Clery Act, 20 U.S.C. 1092\(f\) and its implementing regulations 34 C.F.R. Part 668](#)

7.0 Title IX Training, Prevention, and Awareness

The Title IX Coordinator and the Student Development department is responsible for educating the campus community on how to prevent sexual misconduct. The following are some of the many activities that happen on campus in the continuing effort to educate faculty, staff, and students on this important issue:

- Provide Title IX training for faculty, staff, and students regarding their rights and policies through Populi email and dashboard, Welcome Weekend Orientation, and on college's website. Occurrence – annually.
- Mandatory floor meeting for all residential students living in residence housing concerning Title IX and sexual misconduct offense reporting. Occurrence – annually.



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- Email to all students, faculty, staff, and board members regarding Title IX Policies (including a copy and/or link of the Policy) – Occurrence: twice annually
- Presentation on sexual assault awareness and prevention information at all student and staff orientations. Occurrence: annually
- Provides additional resources through email, Populi's news feed, and in semester orientation sessions to students, faculty, staff, administration, and Board members.
 - U.S Department of Education and Title IX (<http://sites.ed.gov/titleix/>)
- **Crisis Counseling Assistance:** Staff members shall encourage the student to access support services from those specially trained to assist victims of sexual assault, domestic violence, dating violence or stalking.
 - On Campus – Campus Ministries Office, 817-554-5950 ext. 103
 - Off Campus – Compassion Counseling 817-723-1210

7.1 Local Resources and College Directory

The College provides any complainant (student or employee who reports an incident involving sexual misconduct and/or interpersonal violence either on or off-campus) with a copy of the Notice of Complainant's Rights. The following information and resources written in this notice along with procedures, options and available assistance from this policy.

- **Sex Offender Registry:** In accordance with the *Campus Sex Crimes Prevention Act of 2000*, which amends the *Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act*, the *Jeanne Clery Act*, and the *Family Educational Rights and Privacy Act of 1974*, the Messenger College Office of Student Development provides a link to publicly accessible Internet web sites containing the *Texas Sex Offender Registry* and the *Tarrant County Sex Offender List*. This law also requires sex offenders, who already are required to register in a state, to provide notice of each institution of higher education in that state at which the person is employed or enrolled as a student.

Individuals included on the web sites are included solely by virtue of their conviction record and Texas state law. The primary purpose of providing this information is to make the information easily available and accessible, not to warn about any specific individual. Anyone who uses this information to commit a criminal act against another person is subject to criminal prosecution.

Follow the link below to access the *Texas Sex Offender Registry* website. The Texas Department of Public Safety is responsible for maintaining this registry: <https://publicsite.dps.texas.gov/SexOffenderRegistry>



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Follow the link below to access the *Tarrant County Sex Offender List* website. The Tarrant County Sheriff's Department is responsible for maintaining this registry:

<https://www.tarrantcounty.com/en/sheriff/operations-bureau/criminal-investigations/sex-offender-registration.html>

Contact and Emergency Information

Administrative Office Phone 817.554.5950 Ext 100 Email
info@messengercollege.edu

Office of Academic Affairs (Faculty, Curriculum, Instruction, Classroom, Library, Academic Support, Institutional Effectiveness) Phone 817.554.5950 Ext 108 Email cscalf@messengercollege.edu

Office of Business Affairs (Bursar, Accounts Payable, Scholarships) Phone 817.554.5950 Ext 102 Email aheppner@messengercollege.edu

Office of Enrollment Services (Admissions, Registrar, Advising, Records) Phone 817.554.5950 Ext 165 Email enrollment@messengercollege.edu

Office of Financial Aid (Federal Aid, Cost of Attendance, Tuition Planning) Phone 817.554.5950 Ext 104 Email finaid@messengercollege.edu

Office of Student Development (Residence Life, Campus Ministries, Campus Safety, Student Life) Phone 817.554.5950 Ext 103 Email studentdevelopment@messengercollege.edu

Emergency Hotlines and Resources

Bedford, Texas Police Department: 817.952.2440

Eules Police Department: 817.685.1500

Student Housing Maintenance: 325.998.6240

Student Housing Concerns: 573.338.2069

Texas Health HEB: 817.848.4000

Poison Control: 1.800.222.1222

Suicide Hotline: 1.800.273.8255 Emergency: (988)

Missing and Exploited Children Hotline: 1.800.843.5678

Sexual Assault Hotline: 1.800.656.4673

Drug and Alcohol Treatment: 1.800.662.4357

Mid-Cities Pregnancy Center: 817.918.8261



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Mission Arlington Counseling: 817-704-6144

Compassion Counseling: 817-723-1210

Medical, Fire, or Safety Emergency Dial 911

In the event of a personal medical emergency please dial 911

Messenger College prohibits Title IX Sexual Misconduct and Harassment as defined by the federal regulations of the United States Department of Education. In compliance with the Department of Education's regulations, Messenger College has implemented a grievance procedure for the resolution of formal complaints that includes notice to all parties, prompt and impartial investigations, and live hearings that include an opportunity for cross-examination by advisors. The college also requires those designated as official of authority to promptly report any violation or alleged violation of this policy.

This policy applies to all levels and areas of Messenger College operations and programs, to undergraduate students, administrators, faculty, staff, volunteers, and contractors.

To file a complaint or report an incident please contact the Title IX Coordinator, Samuel Kinnin at skinnin@messengercollege.edu or submit a digital form at:

<https://messengercollege.populiweb.com/router/forms/respond/q02843a95402f74060f476ab50047e05441890a58d284ae34760d2090bbbe3f3959b29c909cb00c6cd1f83329aea8a5ea77cd43b73891e004d8502b288ae5802864fbf8ccec3a2ff1ed7554205700ee494cf0be32f0fdb3582ae067fc698a9f841fc3bfff8f4e1234b7043c034ac4>