



Policy on Title IX Sexual Harassment and Misconduct  
2024-2025

Policy Outline:

Purpose & Scope

Title IX Coordinator

Title IX Misconduct Offenses

Reporting a Sexual Misconduct Offense

Procedures for Title IX Cases

Definitions

Title IX Training, Prevention, and Awareness

## Purpose and Scope

Sexual misconduct, harassment, and discrimination are inconsistent with Christianity and the Gospel of Christ. 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. As part of that effort, Messenger College has established procedures and processes to promote and ensure safe living and learning environments for our students, staff, and faculty.

As a religious institution, Messenger College is exempt from many provisions of Title IX. However, Messenger College's policies and procedures prohibit sexual misconduct, including sexual assault, sexual violence, sexual harassment, sexual discrimination, domestic or dating violence, stalking, sexual exploitation, retaliation, and sexual misconduct of any kind. Messenger College will investigate and take appropriate disciplinary actions consistent with our religious tenets, mission, and policies and procedures where such misconduct is determined to have occurred.

As a religious institution, Messenger will only comply with the provisions of Title IX of the Education Amendments of 1972, which prohibits discrimination (including sexual harassment and sexual violence) based on sex in the College's educational programs and activities that are not covered by the law's religious institution exemption provisions, and thus legally apply to Messenger College. Title IX also prohibits retaliation for asserting or otherwise participating in claims of sex discrimination. It is the policy of Messenger College to only comply with this provision of Title IX to the extent that this portion of the law is not covered under the law's religious exemption provisions. Consequently, Messenger College will comply with all Title IX procedures and policies not covered by Title IX's religious exemptions provisions.

The Title IX Sexual Misconduct and Harassment Policy applies to the Messenger College on campus community in a program or activity. Title IX also requires that Messenger College is "required to address sex-based hostile environment in its education program or activity in United States, even when some conduct alleged to be contributing to the hostile environment occurred outside the recipient's program or activity or outside the United States."

All members of the Messenger College community are encouraged to report any sexual misconduct whether such conduct occurs on or off campus. 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.

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 as well as Messenger College's policies and procedures and code of conduct. 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, biological gender, ethnicity, nationality, race, disability, age, marital, or veteran status in any of its policies, procedures, or practices. The college prohibits any form of sexual harassment on the part of its students and employees. However, as a religious institution and in certain instances or situations, Messenger College may make certain distinctions and decisions concerning students, faculty, and staff that are consistent with its religious tenets and mission.

### **Title IX Coordinator**

The Student Development Director of Compliance serves as the Title IX Coordinator and ensures Messenger College is compliant with Title IX. The Title IX Coordinator will be informed of all complaints, reports, and alleged violations of the college's Title IX Sexual Misconduct and Harassment Policy, and pursuant to and taking into account Messenger College's religious exemptions under Title IX, will follow all applicable Title IX policies as well as all applicable 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, overall Title IX policies and updates, and providing additional information regarding personal rights under Title IX.
- Overseeing the training and revision of Title IX policies, including record keeping, and other procedural requirements related to this policy.
- Responding in accordance with the procedures set forth in this policy to any complaint or report received regarding conduct that may be in violation of 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:

Mike West, Director of Student Development Compliance  
Title IX Coordinator  
Email: [mwest@messengercollege.edu](mailto:mwest@messengercollege.edu)  
Phone: 817-554-5950

## Title IX Sexual Misconduct Offenses

According to the Title IX statute, sex Discrimination is discrimination that involves “sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.” This includes any provisions or actions, “that prevent a student from participating in a recipient’s education program or activity consistent with their gender identity...”

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 Messenger College’s education program or activity within the United States, or where some “conduct alleged to be contributing to the hostile environment occurred outside the recipient’s education program or activity or outside the United States.”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, or the complainant is making a complaint about “sex discrimination he/she experienced” in Messenger College’s education program or activities “even if they chose to leave” Messenger College’s “education program or activity as a result of discrimination or for other reasons.”

The following forms of harassment are considered “sex discrimination:”

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.
- Harassment that includes sexual conduct that is “unwelcomed,” and examined as a whole “is subjectively and objectively offensive,” “severe and pervasive,” and “limits or denies” an individual’s educational experience, working conditions or experience, or living conditions.

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 part, such as genitalia 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.
- 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 involved persons.

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.

Hostile Environment Harassment: "is unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity."

Sexual Violence- involves non-consensual sexual penetration or forceful non-consensual sexual contact involving extreme coercion, force, or incapacitation.

## Retaliation

Retaliation is an adverse action taken against another person because they have filed a Title IX complaint or participated in a Title IX 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 complainants, respondents, witnesses, and other involved parties from retaliation. Retaliation of this nature also includes “peer 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 MC may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported, MC will engage in a variety of means, to address and mitigate the effects as feasible. 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.

Any “conduct that may reasonably constitute retaliation” will follow the same investigation, grievance, and disciplinary policies and procedures that other sex discrimination cases follow.

## Reporting a Sexual Misconduct Offense

Messenger College encourages individuals to report sexual harassment offenses to the Title IX Coordinator and, when appropriate, law enforcement officials. Messenger College will “promptly and effectively” act on any “...knowledge of conduct that reasonably may constitute sex discrimination in its education program” that is received by the Title IX Coordinator, and he/she will apply the procedures outlined in the section. Complaints can be oral or written.

To file a formal complaint please fill out this form:

<https://messengercollege.populiweb.com/router/forms/respond/g02843a95402f74060f476ab50047e05441890a58d284ae34760d2090bbbe3f3959b29c909cb00c6cd1f83329aea8a5ea77cd43b73891e004d8502b288ae5802864fbf8ccec3a2ff1ed7554205700ee494cf0be32f0fdb3582ae067fc698a9f841fc3bfff8f4e1234b7043c034ac4>

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.

Messenger College has designated certain individuals as “confidential employees” related to Title IX. If a reporting party desires to confidentially report an incident, he/she may report it to the following individual:

- Lynnea Martinez, Campus Pastor- [lmartinez@messengercollege.edu](mailto:lmartinez@messengercollege.edu)

The confidential employee must report the type of sexual harassment or sexual misconduct to the Title IX Coordinator but may not reveal any kind of confidential information that would lead to discovery of the complainants identity or expectation of confidentiality.

Complainants may also be able to report confidentially to non-Messenger College professionals such as:

- Licensed professional counselors
- Local rape crisis counselors
- Local or state assistance agencies
- Clergy/Chaplains

Messenger College confidential employees will maintain confidentiality except in extreme cases of immediate threat or danger, or abuse of a minor. Complainants should verify confidentiality rules with non-Messenger College professionals.

## **Employee Reporting**

Title IX also designates certain requirements that all employees must follow to ensure that Messenger College is aware of and properly handles Title IX issues. In that regard, Title IX identifies, “...certain employees” who “are [required] to notify the Title IX Coordinator when the employees have information about conduct that reasonably may constitute sex discrimination.”

Title IX describes two types of employees that fall into this category. The first category of employees is described in the following manner:

Any non-confidential employee at a postsecondary institutions or other recipient who either has authority to take corrective action on behalf of the recipient or has responsibility for administrative leadership, teaching, or advising in the recipient’s education program or activity is obligated to notify the Title IX Coordinator.

The second category of employee is described as, “All other non-confidential employees at a postsecondary institution or other recipient that are obligated to either notify the Title IX coordinator or provide the contact information of the Title IX Coordinator and information about



how to make a complaint of sex discrimination to any person who provides the employee with information about conduct that reasonably may constitute sex discrimination.”

All employees must also be aware of and will comply with all relevant and appropriate reporting requirements under Texas law and any violations for failing to do so.. Any school official or employee with the authority to institute corrective measures must immediately report any sexual misconduct or harassment to the Title IX Coordinator. These “mandatory reporters” include all faculty, adjunct faculty, full-time staff members, non-student worker, part-time staff members, student workers employed by Messenger College, resident assistants, and resident directors.

Messenger College’s policies are extremely comprehensive and straightforward in this area. All non-confidential, Messenger College employees, regardless of status and including student employees, who become aware of “conduct that reasonably may constitute sex discrimination in its educational program or activity” are required, without exception, to immediately report this information to the Title IX Coordinator so that the institution can “respond promptly and effectively.”

Failure to follow this procedure is a violation of Messenger College policy and will subject the employee to disciplinary action including termination.

To file a formal complaint please fill out this form:

<https://messengercollege.populiweb.com/router/forms/respond/g02843a95402f74060f476ab50047e05441890a58d284ae34760d2090bbbe3f3959b29c909cb00c6cd1f83329aea8a5ea77cd43b73891e004d8502b288ae5802864fbf8ccec3a2ff1ed7554205700ee494cf0be32f0fdb3582ae067fc698a9f841fc3bfff8f4e1234b7043c034ac4>

**Emergency Reporting:** In emergency situations or situations where a crime is in progress or there is a threat involving imminent or serious harm to safety or security of students, faculty, staff, or the Messenger College community, 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 once he/she receives notice of conduct that may constitute sexual discrimination/misconduct in Messenger College’s education program. Supportive measures are non-disciplinary, non-punitive services that are appropriately offered to the parties to ensure a proper response, preserve access to Messenger College’s education program and activity, and/or deter sexual harassment. These measures, may include, but are not limited to:

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

- Timely warnings, if required.

When a Complainant Does not Wish to Proceed: If a Complainant wishes to remain anonymous, does not want an investigation to be conducted, or does not want a complaint pursued by Messenger College, he/she may make such a request to the Title IX Coordinator. The Coordinator will evaluate the request while considering the nature of the facts and circumstances surrounding the incident. The Title IX Coordinator has a duty to ensure the safety of the campus and to comply with state or federal law. Pursuant to Title IX,

In the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process, the Title IX Coordinator may initiate a complaint only if the conduct presents an imminent and serious threat to someone's health or safety or prevents the recipient from ensuring equal access based on sex to its education program or activity...a recipient knows to honor a complainant's request not to proceed with a complaint investigation unless the Title IX Coordinator makes a fact-specific determination that the conduct as alleged presents an imminent and serious threat to the health or safety of a complainant or other persons or prevents the recipient from ensuring equal access based on sex to its education program or activity.

In such situations, and in accordance with its Title IX religious exemptions, Messenger College will follow the above policy and standards. However, this standard applies to Title IX complaints and does not prevent Messenger College from pursuing other appropriate code of conduct and institutional policy and procedural remedies against involved parties.

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.

### **Procedures of Title IX Cases**

As a religious institution, Messenger College is exempt from many provisions of Title IX. However, sexual misconduct and harassment is inconsistent with Christianity and the policies, procedures, and mission of Messenger College. Consequently, While Messenger College prohibits all forms of sexual misconduct, MC prohibits most Title IX Sexual Misconduct and Harassment as defined by the federal regulations of the United States Department of Education. Accordingly, 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 that all non-confidential, Messenger College employees, regardless of status and including

student employees, who become aware of “conduct that reasonably may constitute sex discrimination in its educational program or activity” to immediately report this information or any other violation or alleged violation of this policy to the Title IX Coordinator so that the institution can “respond promptly and effectively.”

This policy applies to all levels and areas of Messenger College operations and programs, to undergraduate students, administrators, faculty, staff, authorized 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, authorized 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 include:

### **Investigation**

Upon receiving notice of possible sexual discrimination/misconduct, Messenger College will commence an investigation. Generally, the Title IX Coordinator will serve as the primary investigator for all Title IX cases. However, should the investigator have a bias or a conflict of interest concerning any case, he/she will immediately disclose that bias or conflict to the President’s Cabinet and recuse himself/herself from the case. The coordinator should refer such a case to the Cabinet, and request that the Cabinet appoint a new investigator. In such cases, the Title IX Coordinator will not participate in any aspect of the investigation or disposition of the case and should have no access to or any information about an active case from which he/she has been recused.

During the investigation phase, Messenger College’s investigator will attempt to interview the complainant, respondent, and any witnesses who may have information about the incident(s). All parties will be provided with a reasonable time period to prepare for their interview with Messenger College’s investigator. Generally, parties will be given two days to prepare for their interview with the investigator. Parties may request a reasonable amount of additional time to prepare. Messenger College’s investigator will consider all requests for extra time, but granting such requests is at the discretion of Messenger College’s investigator. Additionally, each party may select an advisor and have that advisor accompany him/her to all investigative meetings and interviews, but the advisor will not be an active participant in those investigative meetings and interviews. If the advisor causes a major disruption and/or drastically impairs the investigation and/or interview, the investigator can dismiss the advisor and/or postpone the meeting/interview until a new advisor can be selected. Furthermore, the investigator will attempt to gather all relevant evidence from the parties, witnesses, and other people or entities.

After the investigation is concluded, the investigator will issue a written report of investigative findings which will include appropriate references to all evidence presented, gathered, and considered during the investigation. Copies of the investigative findings report will be provided to the complainant, respondent, and their respective advisors. Upon request, any party may schedule a time with Messenger College's investigator to view any evidence presented, gathered, and considered during the investigation. Additionally, either party may provide a written response to the investigative report by contacting the investigator and providing that written response within 10 days of receiving the investigative findings report. Any written response received from a party will be considered by the investigator, and after considering the responses, he/she may alter the investigative report. The investigator will provide the final investigative report to the parties, their advisors, and the hearing panel. Furthermore, the investigator will provide the parties with a hearing notice which includes the time, date, and location of the hearing for the case.

### **Right to an Advisor**

Complainant and respondents may choose an advisor to accompany each party to all meetings, interviews, and hearings. Parties are free to choose any eligible and available person to serve as their advisor. The complainant and respondent may have only one advisor.

The advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to have advise, support, and/or consult with them throughout the investigation and disposition process. Additionally, parties have the option to forgo having an advisor in the initial stages of the case, but they must have an advisor during the hearing process, and that advisor must be present at the hearing.

Please note that if the advisor causes a major disruption and or drastically impairs the investigation, the investigator can dismiss the advisor. If the party wishes to select a new advisor, they may do so as long as it is in a reasonable time frame as determined by the investigator during the investigative phase.

### **Hearing**

A formal hearing will be scheduled as soon as possible after the final investigative findings report is received by the parties, their advisors, and the hearing panel. Since the Title IX Coordinator generally serves as primary investigator in Title IX cases, he/she may not serve as an adjudicator on hearing panels.

For standard cases, the following individuals, absent any conflicts of interests or bias, will generally 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 another staff member as designated by the President's Cabinet.
- Cases where the Respondent is an Employee:
  - The college president, a member from the President's Cabinet, and the Vice President of Business Affairs

In the event one or all of the members of the adjudicator panel has a conflict of interest and/or bias, the President's Cabinet will select other members.

- Cases where the Respondent is a member of the President's Cabinet:
  - Three members of the MC Board of Governors as selected by the College President or Chairman of the Board.

All hearings will be in-person, and the hearing must be recorded. A party may request a virtual hearing, but such a request will not be granted unless the requesting party can demonstrate that there are extreme extenuating circumstances and compelling reasons to grant a virtual hearing. Parties or their advisor will be given the opportunity to make an opening statement and advisors will be given the opportunity to present witnesses, cross-examine all opposing witnesses, and present relevant and permissible evidence presented, gathered, and considered during the investigation process as permitted at the discretion of the hearing panel.

For example, a party may not present new or previously undisclosed evidence at the hearing unless the requesting party can demonstrate a compelling reason why such evidence was not turned over to the investigator and other involved parties. A party who wishes to introduce new evidence of this nature must request an evidentiary ruling from the hearing panel and provide sufficient and compelling reasons to the hearing panel explaining why such new and non-disclosed evidence should be admitted and considered. Admitting and considering such evidence is at the discretion of the hearing panel, and there is no guarantee that the panel will admit or consider such evidence.

At the conclusion of the hearing, the hearing panel will deliberate and determine whether there is clear and convincing evidence that the respondent violated this policy. Within ten (10) business days, the hearing panel will issue a written decision and determination outlining its decision to the Title IX Coordinator. The written decision and determination should include: a description of the procedural steps taken throughout the case; a list of the allegations at issue in the case; appropriate references to all evidence presented, gathered, and considered during the hearing; a summary of the findings of fact supporting the panel's final determination which address each misconduct allegation in the complaint with a discussion and conclusions regarding application of the MC Sexual Misconduct and Harassment policy; a statement of any all disciplinary sanctions that will be enforced against the parties; an explanation of any remedies that will be provided to the parties (if applicable); and a description of the procedures and grounds for appeal.

After receiving the hearing panel's written decision, the Title IX Coordinator will retain the original copy of the hearing panel's decision in the investigation file and within ten (10) business days of receipt of the hearing panel's final written decision, the Coordinator will issue a final disposition and determination letter outlining the hearing panel's findings, and if sanctions will be applied, a description of all disciplinary sanctions that will be enforced against the parties, any remedies and support that will be provided to the parties and/or any remedies or actions taken by the College to stop repeated or further issues of this nature from happening (if applicable), and a description of the procedures and grounds for appeal. This final disposition and determination letter will be mailed to all parties, their advisors, and emailed to the President of Messenger College. The President will either notify the Title IX Coordinator that the final disposition and determination is affirmed and sustained, or that he/she will be initiating an appeal.

The recording of the hearing will be made available within a reasonable time to the parties and their advisors.

### **Appeal**

Within ten (10 days) of issuance of the final disposition and determination letter, either party may file a formal written appeal request with the Title IX Coordinator. Grounds for an appeal must be based on at least one of the following areas: a) procedural irregularities in the investigation and/or hearing processes; b) the discovery of new evidence which was not available at the hearing; or c) the presence of a conflict of interest/bias on behalf of the investigator or hearing panel. Any party requesting an appeal must outline the grounds for such in their written request.

Additionally, the President of the College may independently choose to initiate an appeal after a review of the investigation and hearing proceedings or should additional findings be discovered after the issuance of the final disposition and determination letter. Should the President initiate an appeal, he/she must outline the grounds for such an appeal in his/her written notice to the Title IX Coordinator.

For standard appeals, the following cabinets and boards, absent any conflicts of interests or bias, will generally make up the hearing panel and will serve as adjudicators for these appeals:

- Cases where the Respondent is a student:
  - The President's Cabinet.
- Cases where the Respondent is an Employee:
  - Messenger College's Board of Governors

If an appeal is requested by a party or initiated by the President of the College, the Title IX Coordinator will send all parties written notification of the appeal request and the alleged grounds for the appeal. All parties will be given the opportunity to respond in writing and must do so within five (5) days of receiving notice of the appeal from the Title IX Coordinator.

After those five (5) days have expired, all parties will be given at least three (3) days written notice of the date, time, and location of the appeal hearing. Party advisors must be present at the hearing and will be responsible for making all arguments and presenting evidence at the appeal hearing. The appeal panel will determine by clear and convincing evidence whether the appellate issues have been proven and there are, based upon the hearing, grounds to overturn the original hearing panel decision and final disposition and determination issued in the case.

Should the appellate hearing panel decide by clear and convincing evidence that there are not sufficient grounds or evidence to overturn the original hearing panel decision and the final determination issued in the case, it will, within five (5) business days, issue a written decision to the Title IX Coordinator affirming the original hearing panel's ruling and the disposition and determination letter.

If the appellate hearing panel decides by clear and convincing evidence that there are sufficient grounds or evidence to overturn the original hearing panel decision and the final determination issued in the case, the panel will immediately overturn that ruling and within five (5) business days, issue a written decision outlining its decision to the Title IX Coordinator along with a new hearing date where the appellate hearing panel will rehear the entire case and make the final decision concerning the case.

Within five (5) business days, the Title IX Coordinator must send a letter to all parties informing them of the appellate panel's decision to overturn the original hearing panel's decision and the final disposition and determination letter.

Additionally, the Title IX Coordinator must also provide at least five (5) day notice to all parties outlining the time, date, and location for the rehearing. All rehearing proceedings will be in-person and must be recorded. A party may request a virtual rehearing, but such a request will not be granted unless the requesting party can demonstrate that there are extreme extenuating circumstances and compelling reasons to grant a virtual hearing. Parties or their advisor will be given the opportunity to make an opening statement and advisors will be given the opportunity to present witnesses, cross-examine all opposing parties or witnesses, and present relevant and permissible evidence as permitted at the discretion of the hearing panel.

At the conclusion of the rehearing, the rehearing panel will deliberate and determine whether there is clear and convincing evidence that the respondent violated this policy. Within ten (10) business days, the rehearing panel will issue a written decision and determination outlining its decision to the Title IX Coordinator. The written decision and determination should include: a description of the procedural steps taken throughout the case; a list of the allegations at issue in the case; appropriate references to all evidence presented, gathered, and considered during the hearing; a summary of the findings of fact supporting the panel's final determination which address each misconduct allegation in the complaint with a discussion and conclusions regarding application of the MC Sexual Misconduct and Harassment policy; a statement of any and all

disciplinary sanctions that will be enforced against the parties (if applicable); and explanation of any remedies will be provided to the parties (if applicable).

After receiving the rehearing panel's written decision the Title IX Coordinator will retain the original copy of the rehearing panel's decision in the investigation file and within ten (10) business days of receipt of the rehearing panel's final written decision, the Coordinator will issue a final disposition and determination letter outlining the rehearing panel's findings, a description of all disciplinary and other sanctions that will be enforced against the parties along with any remedies and support that will be provided to the parties, and remedies or actions taken or to be taken by the College to stop repeated or further issues of this nature from happening (if applicable).

All appellate rehearing decisions are final and cannot be appealed. Any findings of bias or inappropriate process found by the appellate panel concerning the original investigation or the actions of the original hearing panel should also be referred to the President or his designee for additional investigation and appropriate disposition.

### **Reporting**

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

Messenger College must also report the occurrence of major violent crimes, including certain sexual misconduct offenses in the "Annual Security and Fire Safety Report." This report is a campus crime statistics report that does not include personal identity information. MC will also follow any relevant and applicable state law reporting requirements to the President and Board of Governors. All annual reports will be posted on the college's website.

Furthermore, Messenger College is committed to protecting the safety of the campus community. Consequently, if Messenger College becomes aware of a serious and continuing threat to the campus community, a timely notification will be issued to the campus community to ensure its protection. Additionally, the College may be required to disclose a reported incident of sexual misconduct in the crime log, annual security and fire safety report, or make other disclosures or reports as required under state or federal law.



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

Messenger College will generally “honor a complainant’s request not to proceed with a complaint investigation...” and/or a complainant’s request to remain anonymous.

However, in certain situations the Title IX Coordinator may, to comply federal and state laws be required to investigate the matter and take appropriate action to ensure the health and safety of the Messenger College community including its students, faculty, and staff.

Subject to its religious exemptions under Title IX, Messenger College will generally adhere to the following in this regard,

In the absence of a complaint or the withdrawal of any or all of the allegations in a complaint, and in the absence or termination of an informal resolution process, the Title IX Coordinator may initiate a complaint only if the conduct presents an imminent and serious threat to someone’s health or safety or prevents the recipient from ensuring equal access based on sex to its education or activity.

Consequently, 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 even in a situation where 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 in a proposed complaint “present an imminent and serious threat” to the safety and security of the Messenger College community. If the Coordinator and the President’s Cabinet make a “fact specific determination by considering, at a minimum, eight listed factors, and determining whether the conduct as alleged presents an imminent and serious threat to the health or safety of a complainant or other person or prevents the recipient from ensuring equal access based on sex to its education program or activity...the Title IX Coordinator may initiate a complaint.” The fact specific minimum factors are:

To make this fact-specific determination, the Title IX Coordinator must consider, at a minimum, the following factors: (1) The complainant's request not to proceed with initiation of a complaint;(2) The complainant's reasonable safety concerns regarding initiation of a complaint; (3) The risk that additional acts of sex discrimination would occur if a complaint is not initiated; (4) The severity of the alleged sex discrimination, including whether the discrimination, if established, would require the removal of a respondent from campus or imposition of another disciplinary sanction to end the discrimination and prevent its recurrence; (5) The age and relationship of the parties, including whether the respondent is an employee of the recipient; (6) The scope of the alleged sex discrimination, including information suggesting a pattern, ongoing sex discrimination, or sex discrimination alleged to have impacted multiple individuals; (7)

The availability of evidence to assist a decisionmaker in determining whether sex discrimination occurred; and (8) Whether the recipient could end the alleged sex discrimination and prevent its recurrence without initiating its grievance procedures under § 106.45, and if applicable § 106.46.

The Cabinet may consider the seriousness of alleged incidents, the likelihood of harm to others, cases involving a pattern of behavior, involving predation, threats, involving or threat of use of weapons, and that includes violence will be deemed to “present an imminent and serious threat” to the safety and security of the Messenger College Community.

Title IX Coordinator initiated complaints under this provision of the policy will follow the formal complaint procedures outlined above. If it is determined that the allegation/incident does not “present an imminent and serious threat” to the safety and security of the Messenger College Community, the Title IX Coordinator will close the case, and will document the Title IX case file outlining the reasons for the decision and incorporating an analysis of how such complies with Title IX standards.

However, nothing in this policy precludes Messenger College from investigating issues and taking enforcement or corrective action under other institutional policies and procedures which include, but are not limited to, its code of conduct, employment handbooks, and faculty handbooks.

### **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 occur on campus 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 the 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.
- Email to all students, faculty, staff, and board members regarding Title IX Policies (including a copy and/or link of the Policy) – Occurrence: bi-annually
- Presentation on sexual assault awareness and prevention information at all student and staff orientations. Occurrence: annually
- Provides additional resources as needed 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

### **Local Resources and College Directory**

The Title IX Coordinator 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>

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](mailto: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](mailto:cscalf@messengercollege.edu)

Office of Business Affairs (Bursar, Accounts Payable, Scholarships) Phone 817.554.5950 Ext 102 Email [ahppner@messengercollege.edu](mailto:ahppner@messengercollege.edu)

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

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

## **Additional Resources**

Bedford, Texas Police Department: 817.952.2440

Eules Police Department: 817.685.1500

Student Housing Maintenance: 817.554.5950

Student Housing Concerns: 817.554.5950

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

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***

***To file a complaint or report an incident please contact the Title IX Coordinator, Mike West at [mwest@messengercollege.edu](mailto:mwest@messengercollege.edu) or submit a digital form at:***

***<https://messengercollege.populiweb.com/router/forms/respond/g02843a95402f74060f476ab50047e05441890a58d284ae34760d2090bbbe3f3959b29c909cb00c6cd1f83329aea8a5ea77cd43b73891e004d8502b288ae5802864fbf8ccec3a2ff1ed7554205700ee494cf0be32f0fdb3582ae067fc698a9f841fc3bfff8f4e1234b7043c034ac4>***

## ADDENDUM A-DEFINITIONS

### **Additional Relevant Definitions**

For purposes of this policy, the following 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.
- 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 Source: 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 people 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.
- Extreme coercion is compulsion by physical force or threat of physical force to compel another to submit to the wishes of the one who wields it.
- 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 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 are 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 purposes 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 refuse 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).
  - **Reasonably Constitutes:** The standard by which a person in a post-secondary institution must apply in determining to report an incident to the Title IX Coordinator. A person using ordinary or usual rational abilities has knowledge that conduct may qualify as sex discrimination.
  - **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 in 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. According to the Title IX statute, sex discrimination also includes adverse treatment of an individual based on "sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, gender identity." Examples of conduct that can constitute sex discrimination include, but are not limited to:
    - Singling out or targeting an individual for different or adverse treatment (e.g., more severe discipline, lower salary increases).
    - Failing or refusing to hire or allow participation of 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.
  - Sexual conduct that is “unwelcomed,” and examined as a whole “is subjectively and objectively offensive,” “severe and pervasive,” and “limits or denies” an individual’s educational experience, working conditions or experience, or living conditions.
- 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, and continuous and/or repeated offenses may be considered sexual harassment. 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 person's state of incapacitation will be deemed especially egregious and may result in expulsion from the College 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 aggressive 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](#)