2022 ANNUAL SECURITY AND FIRE SAFETY REPORT

2022-2023 Academic Year

Includes Crimes Statistics for Calendar Years (CYs) 2019, 2020 & 2021

MERCYHURST UNIVERSITY

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MERCYHURST UNIVERSITY 2022/2023 ANNUAL SECURITY AND FIRE SAFETY REPORT

The Mercyhurst University Erie campus consists of 95 buildings on about 74 acres of land in the City of Erie, Pa. It is bordered to the north by East 38th Street, to the south by the Sisters of Mercy Mother House and Mercyhurst Preparatory School on East Grandview Boulevard, to the west by Parade Street Boulevard, and to the east by Wayne Street.
Mercyhurst University enrollment for the 2021-2022 academic year was approximately 3910 students. The student body is approximately 60% women and 40% men. For the fall 2021 semester, there were 2814.3 full-time equivalent (FTE) students at the University, and 58.5% of those students lived in University-owned, -recognized, -rented, -leased, or otherwise controlled housing. Additionally, there were 482 full-time equivalent (FTE) employees (faculty and staff combined) at the University.

The Mercyhurst University Police Department strives to create an environment that is conducive to good living and learning by supporting the Mercyhurst University mission, and by recognizing the individual's right to pursue their personal goals. The Mercyhurst University Police Department enforces state, and federal laws, and Mercyhurst University rules and regulations, and at the same time strives to protect the rights of each and every individual. The Mercyhurst University Security Department was founded in 1971, and in August 1998 became the Department of Police and Safety. Today, the Mercyhurst University Police Department remains committed to its original mission of providing a safe and secure environment for the entire University community. The Mercyhurst University Police Department is comprised of A Chief of Police, Patrol Lieutenant, Patrol Sergeant, along with six full time, four part time officers. Police Officers who patrol the campus, perform life safety operations, parking enforcement operations, and work campus special events and details performing crowd and vehicular control activities, as well as other pertinent police related operations. Three full-time and one part-time communications officers are assigned to the camera, emergency alarm center, and communications center located in the Police Department's office at Erie campus. There is a minimum of one police and one communications officer on duty 24 hours a day, 365 days a year. Mercyhurst University safety officers are not police officers and therefore do not have law enforcement authority, including powers of arrest. They are, however, governed by the same rules, regulations, and standard operating procedures (SOP), and perform the same duties as the university police officers.
The Mercyhurst Police Department employs a small contingent of students (typically ranges from 6 to 8) as student work study personnel. These students supplement police operations by performing basic security functions including foot escorts, building checks, interior building and exterior building unlocks, directed patrols, traffic control, access monitoring, Parking enforcement and special event security. City of Erie Police Department (EPD) provide additional support during large-scale campus events and assisting MUPD with the management of on-campus social events/activities. The Department patrols the campus and provides public safety services through the deployment of vehicle, foot, and bicycle patrols.

The Department is under the leadership of the Chief of Police, who reports to the Vice President for Student Life. Institutional clery compliance initiatives are managed by the Chief of Police. The Chief is responsible for coordinating the daily patrol and security operations and activities of the Department. The Lieutenant of Patrol is responsible for is responsible for in-service training, crime prevention services, field training, both internal and external administrative investigations as well as managing the Pennsylvania UCR Act compliance records retention processes and assists in clery compliance. The Patrol Sergeant is responsible for day to day police activities on the North East campus.
The Director of Protective Services is responsible for Fire Safety, OSHA compliance, and environmental, health/ safety concerns, coordinating the institution's fire safety program initiatives; clery compliance and annual fire safety report.

To be successful in providing the highest degree of public safety services on the campus, it is important that community members follow good safety practices and understand that safety is the responsibility of all community members, not just those officially and formally charged with enforcing the laws, policies, and rules. This includes locking your valuables and reporting suspicious/criminal activities. The Mercyhurst Police Department takes a leadership role in this area. This includes educational programs on campus safety, preventative patrols, incident investigation, and crime reporting, fire safety and prevention, crime prevention, and community-policing. Police Officers have completed Pa. Act 120 and attend yearly in-service training. All uniformed supervisors and patrol officers are required to be Red Cross-trained as emergency medical responders, which includes first aid, CPR and the use of an AED, and to be certified in various self-defense techniques. The Mercyhurst University Police Department is located in the lower level of McAuley Hall 501 E. 38th St. Erie, Pa. 16546

This publication is intended to provide you with information on educational programs, safety practices, crime statistics, and policies regarding the reporting of emergencies and campus crime rates. It is the primary objective of the Mercyhurst Police Department to work collaboratively with campus community members in our collective efforts to continually enhance the safety of the campus environment, thereby affording opportunities for community members to work, live, study, and personally and professionally develop both intellectually and socially. Should you have questions, comments, or suggestions regarding the information contained within this publication or any related public safety policies, procedures, or operations, please feel free to contact the Mercyhurst University Police Chief at (814) 824 2104 or email at dfuhrmann@mercyhurst.edu.

CRIME/EMERGENCY REPORTING AND UNIVERSITY RESPONSE

Campus community members - students, faculty, staff, and guests - are encouraged to report all criminal actions, emergencies, or other public safety related incidents occurring within the University's Clery geography to the Mercyhurst University Police Department (MUPD) in an accurate, prompt, and timely manner. The University's Clery geography includes: on campus property including campus residence halls, buildings, and/or facilities; designated non-campus properties and facilities; public property adjacent to and immediately accessible from on campus property, and leased, rented, or otherwise recognized and/or controlled buildings, spaces, and/or facilities. Mercyhurst University Police Department (MUPD) has been designated by Mercyhurst University as the official office for campus crime reporting. MUPD strongly encourages the accurate and prompt reporting of crimes. Accurate and prompt reporting ensures Public Safety is able to evaluate, consider and send timely warning reports, disclose crimes through ongoing disclosure processes such as the posting of crimes in the Daily Crime Log and accurately documenting reportable crimes in its annual statistical disclosure. Mercyhurst University further encourages accurate and prompt reporting to MUPD and/or the local police when the victim of a crime elects to, or is unable to, make such a report. This publication focuses on MUPD because it has primary responsibility for patrolling the Mercyhurst University campus and it has been designated as the institution's primary reporting structure for crimes and emergencies. However, criminal incidents or incidents off campus can be reported to the City of Erie Police Department or other local agency where the crime occurred.

To report a crime or emergency, members of the community should:

- Call the Mercyhurst University Police Department (MUPD) by dialing (814) 824-3911 or on campus extension 3911
- Report in person to the Mercyhurst University Police Department (MUPD) located in the lower level of McAuley Hall, 501 E 38th Street, Erie Pa. 16546
- Crimes or emergency situations can be reported to the City of Erie Police Department (EPD) or local emergency services by dialing 911 in an emergency
- Sex Offenses and other incidents of sexual or relationship violence can also be reported to the University's Title IX Director, by dialing (814) 824-2363 or on campus extension 2363, or in person at the Title IX Office located at Egan 311
- Contact the Office of Human Resources (HR) by dialing (814) 824-2279 or on campus extension 2279, or in person at the HR office located in Old Main, office 200C
- Contact the Vice President for Student Life by dialing (814) 824-2262 or on campus extension 2262, or in person in Egan Office 314
- Emergency Phones located throughout campus can also be used to contact Public Safety to report a crime or emergency.

Complete the online "Silent Witness" reporting form at:
https://www.mercyhurst.edu/sites/default/files/silentwitnessform.pdf
(This form should only be used for non-emergency or non-urgent reporting)

Response to Reports: Dispatchers are available 24 hours a day to answer campus community calls. MUPD procedures require an immediate response to emergency calls. MUPD works closely with a full range of City and county resources to assure a complete and timely response to all emergency calls. Priority response is given to crimes against persons and personal injuries. The Mercyhurst University Police Department responds to all reports of crimes and/or emergencies that occur on-campus, adjacent to campus within its public property reporting area, or within a campus-controlled, -owned, -operated, and/or -recognized facility, building, residence hall, or area. Mercyhurst University Police Department personnel also can notify Erie County emergency dispatchers of emergency situations occurring on-campus via portable, mobile, and fixed two-way radio communications systems, and transferring telephone calls to the 911 emergency center. This system allows Public Safety to summon assistance from emergency responders if deemed necessary and appropriate. Incidents occurring on-campus, within residence halls or non-campus buildings, or on recognized public property adjacent to or

contiguous to University-owned, -controlled, -operated, or recognized facilities, buildings, or areas are documented and processed for further investigation and review by the Vice President for Student Life and/or the local City of Erie Police, depending upon the nature of the crime or emergency and the involvement of the local City of Erie Police. Additional information obtained via any investigation will also be forwarded to the Director of Residence Life.

To obtain information or request any police services community members should call (814) 824-3911 or extension 3911. During power failures or emergencies, the MUPD communications center can also be reached by dialing the Mercyhurst University Police Department cell phone number at (814) 881-7359. Located throughout campus are well-marked Emergency Blue Light phones. These phones provide direct contact to MUPD. When placing an emergency call, remember to stay on the line and wait for the dispatcher to end the call. These Blue Light Towers should be used when seeking information and/or reporting activities – to include criminal incidents. If a member of the community finds any of these Towers inoperative or vandalized, they should call the MUPD so that the phone can be repaired or replaced as quickly as possible. If assistance is required from City of Erie Police Department (EPD) or Erie Fire Department (EFD), MUPD will contact the appropriate unit.

If a sexual assault or rape should occur on campus, staff on scene, including MUPD, will offer the victim a wide variety of resources and services. This publication contains information about on- and off-campus resources and services and is made available to the Mercyhurst University community. The information regarding "resources" is not provided to infer that those resources are "crime reporting entities" for Mercyhurst University.

As mentioned, crimes should be reported to MUPD to ensure inclusion in the annual crime statistics and to aid in providing timely warning Campus Safety Alert notices to the community, when appropriate. For example, a crime that was reported only to the Mercyhurst University counseling center may not be known to MUPD, a campus security authority (CSA), or other University official.

RESPONSIBILITIES OF THE MERCYHURST UNIVERSITY COMMUNITY FOR THEIR OWN PERSONAL SAFETY

Members of the Mercyhurst University community must assume responsibility for their own personal safety and the security of their personal property. The following precautions provide guidance.

- Report all suspicious activity to MUPD immediately.
- Never take personal safety for granted.
- Try to avoid walking alone at night.
- Limit your alcohol consumption, and leave social functions that get too loud, too crowded, or that have too many people drinking excessively. Remember to call MUPD or EPD for help at the first sign of trouble.
- Carry only small amounts of cash.
- Never leave valuables (wallets, purses, books, phones, etc.) unattended.
- Always carry your keys and do not lend them to anyone.
- Lock up bicycles and motorcycles. Lock car doors and close windows when leaving your car.
- Always lock the door to your residence hall room, whether or not you are there. Be certain that your door is locked when you go to sleep, and keep windows closed and locked when you are not at home. DO NOT PROP INTERIOR OR EXTERIOR DOORS.
- Do not leave valuables in your car, especially if they can be easily noticed.
- Engrave serial numbers or owner's recognized numbers, such as a driver's license number, on items of value.
- Inventory your personal property and insure it appropriately with personal insurance coverage.

Voluntary Confidential Reporting:

With the only exceptions being the Director of Health Services Mercyhurst University does not provide a confidential reporting option to Campus Security Authorities (CSA) and does not allow for voluntary confidential reporting. The Director of Health Services in their capacity as a CSA, can make crime reports to MUPD to ensure inclusion in the annual disclosure of crime statistics without disclosing personal identifying information. The Director of Health Services will work closely with MUPD in order to allow MUPD to properly assess reports for timely warning consideration and to avoid double counting of crimes.

Confidential Reporting:

Students may make confidential reports to Pastoral Counselors and/or Certified Counselors assigned to the Counseling Center. Pastoral Counselors and Certified Counselors in their capacity and function do not make identifiable reports of incidents to the Official On-Campus Resources unless the student specifically requests them to do so; however, the University encourages counsellors, if and when they deem it appropriate, to inform students they can report incidents of crime to MUPD, which can be done directly or anonymously through the facilitated anonymous reporting process as outlined below.

Anonymous Reporting:

If you are the victim of a crime and do not want to pursue action within the university or criminal justice system, you may still want to consider making a confidential report. With your permission, a member of the Police Department can file a report on the details of the incident without revealing your identity.

The purpose of a confidential report is to comply with your wish to keep the matter confidential, while taking steps to ensure the future safety of yourself and others. With such information, the university can keep accurate records of the number of incidents involving students to determine where there is a pattern of crime with regard to a particular location, method, or assailant, and alert the campus community to potential danger. Reports filed in this manner are counted and disclosed in the annual crimes statistics for the university.

Additionally, an alternative way to report crime anonymously via the Internet is available by going to:

1. Hub.mercyhurst.edu https://lakersmercyhurst.sharepoint.com/sites/EmployeesHub
2. Log in (if needed) with your Mercyhurst User ID and Password.
3. Hover over the drop-down box labeled *"Services*"
4. Clink on "*Police Department"*
5. Scroll down until you see "*Silent Witness Form*"

https://lakersmercyhurst.sharepoint.com/sites/SPO_STU_PoliceDepartment/SiteAssets/SitePages/SPO_STU_PoliceDepartment/Silent Witness Form - ORIGINAL.pdf?web=1

While anonymous reporting is available by these limited means, the University's ability to investigate and appropriately address allegations of misconduct will be significantly limited. Crimes reported confidentially to the counseling center or pastoral counselors are not disclosed in the University's crime statistics or reporting processes, unless those crimes are reported to MUPD through the facilitated anonymous reporting process.

STATISTICAL DISCLOSURE OF REPORTED INCIDENTS

Incidents reported to MUPD that fall into one of the required reporting classifications as defined by the Clery Act and Pennsylvania Uniform Crime Reporting Act will be disclosed as a statistic in the appropriate crime table within this annual security and fire safety report published by the University.

REPORTING A CRIME TO THE CITY OF ERIE POLICE DEPARTMENT

A person reporting a crime to MUPD has the right to report the crime to the City of Erie Police Department and/or Pennsylvania State Police by calling 911. MUPD officers regularly discuss this option with the victim of a crime and will assist the victim with that process.

OFF-CAMPUS CRIME

If the City of Erie Police Department is contacted about criminal activity off-campus involving Mercyhurst University students, the EPD may notify MUPD. Students in these cases may be subject to arrest by the local police and University disciplinary proceedings through the Office of Residence Life.

MONITORING OF NON-CAMPUS STUDENT ORGANIZATIONS

Mercyhurst University does not have any off-campus student organizations recognized by the University that are engaged in activities by Mercyhurst University students. Nor does Mercyhurst University have any off-campus housing facilities. The campus does, however, maintain a close relationship with state, city, and municipal law enforcement agencies having jurisdiction on Mercyhurst University campus and in areas surrounding the campus. Formal requests are made of each of these agencies for annual crime statistics.

If the City of Erie Police respond to a "non-campus" student rented property in response to a citizen complaint or police officer concern, the police may notify MUPD to provide support assistance to one of those locations. However, the City of Erie Police do this out of a courtesy, and they are not "required" to notify or involve MUPD when they respond to a call involving students on private property. MUPD does not patrol or provide oversight of privately-owned property/residences rented by students that fall outside of the University's Clery geography.

MERCYHURST UNIVERSITY POLICE DEPARTMENT AUTHORITY AND JURISDICTION

Enforcement Authority:

The Mercyhurst University Police Department is responsible for providing law enforcement services for the Mercyhurst University Campus. MUPD Officers and staff are responsible for the enforcement of Federal and State laws as well as the University's policies. In major incidents or investigations, the City of Erie Police Department and the Pennsylvania State Police will assist the Mercyhurst University Police Department. The Mercyhurst University Police and Safety Department has a written memorandum of understanding with the Erie Police Department. If requested, EPD will assume entire responsibility for the incident and/or investigation of crimes graded as misdemeanors or higher.
The Vice President for Student Life, in conjunction with the Director of Residence Life or their designee, Vice President of Academic Affairs, Title IX Coordinator, and Human Resources Director as it relates to employee conduct, coordinate disciplinary action for matters that are violations of University rules.

Arrest Authority:

Mercyhurst University Police Department Police Officers are Act 120 trained, or have the equivalent training required by state law to be certified as sworn police officers. Police Officers are sworn and have full arrest powers on all property owned or controlled by the university, and on all public property adjacent to the campus.

Mercyhurst Police Department Jurisdiction:

Mercyhurst Police Department's jurisdiction encompasses on-campus property that includes campus residence halls, buildings, and/or facilities; designated non-campus long term properties and facilities that are within the City of Erie and reasonably close to the main or core campus; public property adjacent to and accessible from on-campus property; and leased, rented, or otherwise recognized and/or controlled buildings, spaces, and/or facilities that are also within the City of Erie.

Mercyhurst Police Department has no jurisdiction or enforcement authority outside of its identified Clery reporting geography – this includes areas and/or properties that are not owned, rented, leased, recognized, or otherwise controlled by the University.

Criminal Background Checks:

The University does not routinely conduct state and/or federal criminal background investigations on prospective students. However, it is the policy of the University that all new employees and faculty, as well as volunteers and interns who have significant interaction with Mercyhurst University students, have their criminal background records and sex and violent offender registries checked as soon as possible after an offer of employment has been accepted. Individuals who work with minors are required to complete additional background checks, including a Pennsylvania State Criminal Check, Pennsylvania Child Abuse, and FBI Check.

SECURITY OF AND ACCESS TO CAMPUS FACILITIES

Academic and Administrative Buildings:

The Mercyhurst University campus is open to the public. The majority of academic and administrative buildings are open during normal business hours (typically Monday through Friday, from 7am to 10pm, except holidays) and are typically secured during the late evening hours, depending upon special event scheduling and community usage. Some academic buildings are typically secured from 11pm to 6am each night, and authorized access may be gained to these buildings via the access control system. The Hammermill Library's hours can fluctuate, but the library is normally accessible seven day a week by the campus community members, except holidays, break periods, and summer session. The 24 hour lounge is located in the Center for Academic Engagement building and may be accessed after hours via the access control system. Members of the Department of Public Safety regularly patrol the interiors and exteriors of all campus facilities.

Residence Halls:

Access to residence apartment and townhouses is restricted to Mercyhurst University students and authorized staff, these are secured by key and lock systems 24 hours a day/7 days a week. First-year residence halls and other select large scale residential facilities are restricted to Mercyhurst University students and authorized staff, and are secured 24 hours a day/7 days a week by an access control system. The first floor retail area of Ryan hall is open to the public from 7am to 10pm daily, access to residence wings/rooms is restricted by access control. Members of the Mercyhurst Police Department regularly patrol the interior common areas, spaces, and hallways of buildings equipped with such common spaces and regularly patrol the exteriors of all campus residence halls. Residence hall professional and student staff also enforce campus policies and security measures within the residence halls to achieve a community respectful of individual and group rights and responsibilities.

Break Housing:

During the academic year, the University officially closes Freshman Housing for Thanksgiving, Winter, and Spring Breaks. Freshman Residence Halls usually close the day after the last day of class or exams during these periods, and reopen on the day before the first regularly scheduled class. Notices of specific times, dates and the process are publicized before each break. Students are reminded to make travel arrangements accordingly. Break Housing for students who cannot return home or leave campus over breaks may be provided. Only students authorized to stay may remain over the breaks. Students living in freshman residential area must contact their Hall director for permission to remain in housing or return early during the breaks. Card access to the halls will be turned off unless permission is granted to remain over the break period. Upperclassman students who plan to stay in their apartments over break must notify their RA's prior to the beginning of break. All students will be asked to register for the break period at the Office of residence Life.

When the residence halls close for breaks, students are expected to take out trash and perishable food, unplug items in the room, turn out the lights, and shut and lock the windows. Bedroom doors that are lockable and apartment doors must be closed and locked. A list of complete closing procedures will be distributed about two weeks prior to each break closing. Residents may leave personal items in their room during all breaks, except for

the summer. However, due to the "unoccupied" status of the campus during breaks, it is suggested that students take valuable items with them to ensure their safety.

Staff members from Residence Life conduct inspections during breaks. Any infractions will be noted and the student will be notified and/or charged accordingly. Any student requesting access to their residence hall or room during University break periods when the University is officially closed shall present themselves to the Mercyhurst Police Department and request permission for access. MUPD will authorize a student access to their respective room for legitimate reasons only. Officers authorize full discretion in determining a student's legitimacy to enter the closed residence hall based on the information given. For example, access should be limited to medical needs and necessities and similar related urgent requests. Once the legitimacy of the request is established, access requests will be managed as follows: The student's identity, resident status, and room assignment will be verified. After this verification, an officer will escort the student to their room, allow drop-off or retrieval of the item(s) in question, and then escort the student from the building.

MAINTENANCE OF CAMPUS FACILITIES

Mercyhurst University facilities and landscaping are maintained in a manner that minimizes hazardous conditions. MUPD regularly patrols the campus and reports malfunctioning lights and other unsafe physical conditions to Aramark Facilities Management for correction. Campus community members can additionally report hazards directly to Aramark Facilities Management through an online service response reporting process. The campus' overall safety and security program is supplemented by a variety of technological systems including; access control, closed circuit television, emergency phones and fire detection, suppression and reporting systems. Other members of the University community are helpful when they report equipment problems to MUPD or Aramark Facilities Management.

MERCYHURST POLICE DEPARTMENT TRAINING

The Chief of Police, Lieutenant of Police and Director of Protective Services are primarily responsible for conducting intensive and continuing training for Mercyhurst Police Officers. Training topics may include criminal law, civil law, federal law, the Clery Act and campus security authority, Title IX, sexual assault and gender violence response and investigation, trauma informed investigation, public relations, race relations, interpersonal communications, crisis intervention, critical incident response and incident command system, emergency operations, emergency medical training, and all facets of protection of persons and property. Training includes annual mandatory in-service sessions for municipal police officers. The Department also utilizes guest lecturers, select out-service seminars and conferences, applicable online training/webinars, and regular roll-call information sessions. Police Officers will qualify with firearms annually including pistol, rifle and shotgun. Additional firearms training will be given throughout the year in areas of weapons retention, dim light, weapon transition, shooting from cover and shoot don't shoot scenarios.

MERCYHURST POLICE DEPARTMENTS WORKING RELATIONSHIPS WITH OTHER LAW ENFORCEMENT AGENCIES

The Mercyhurst University police Department maintains a close working relationship with the City of Erie Police Department, Millcreek Township Police Department, Erie County Sheriff's Department, Erie County District Attorney's Office, Drug Strike Task Force, Joint Terrorism Task Force, and Pennsylvania State Police. Collaborative meetings and training sessions are occasionally held to review issues and incidents occurring within the multiple local jurisdictions. MUPD is comfortable with and capable of reaching out to these responsive law enforcement entities for support and assistance as it relates to the safety and security of the campus community.
MUPD officers and local law enforcement officers communicate regularly on the scene of incidents that occur in and around the campus area. MUPD investigators work closely with local law enforcement investigators when incidents arise that require joint communication efforts.

Written Memorandums of Understanding with Local Police:

There is a Memorandum of Understanding (MOU) between Mercyhurst University and the City of Erie Police Department (EPD). This agreement specifically address the response, responsibility and investigation of all alleged criminal offenses including sexual assault and relationship violence. There is a Memorandum of Understanding (MOU) between Mercyhurst University and the North East Police Department (NEPD). This agreement only addresses the holding of prisoners by NEPD for MUPD.

CAMPUS SAFETY ALERTS - NOTIFYING THE MERCYHURST UNIVERSITY COMMUNITY ABOUT CRIMES

In an effort to provide timely notice to the Mercyhurst University community in the event of a criminal situation that may pose a serious or continuing threat to members of the campus community, a Campus Safety Alert (timely warning notice) that withholds the names of victims as confidential and that will aid in the prevention of similar crimes, is sent primarily by blast email to all students and employees on campus as soon as pertinent information is available. Alerts can also be sent/communicated via Mercyhurst e2campus text/voice messaging system and a variety of other notification methods, as outlined in the Emergency/Immediate Notification section of this Annual Report. The intent of a Campus Safety Alert is to warn the campus regarding a criminal incident, providing individuals an opportunity to take reasonable precautions to protect themselves.

Campus Safety Alerts are generally written and distributed to the campus community by the Chief of Police, Director of Protective Services, or Lieutenant of Police, and they are routinely reviewed and approved by the Vice President for Student Life, Vice President for Academic Affairs or other University Cabinet level Vice President prior to distribution. The Chief of Police or Lieutenant of Police have the authority to issue a Campus Safety Alert without such consultation if consultation time is not available. Should the Chief of Police or Lieutenant of Police be directly impacted and involved in an incident response or otherwise unavailable, any trained member from the Communications and Marketing Office could write and send a Campus Safety Alert.

Campus Safety Alerts are sent to the University community to notify members of the community about specific Clery Act crimes (as described below) that have been reported to MUPD and that have occurred on campus or on non-campus property or public property, where it is determined that the incident may pose a serious or continuing threat to members of the University community.

Crimes that occur outside the campus' Clery geography, as stipulated or other non-Clery specific crimes, will be evaluated on a case-by-case basis. Information related to these crimes may be distributed to the campus as a Public Safety Notice, as outlined and described in the below policy statement for "Public Safety Notices." Updates to the campus community, when deemed necessary, about any particular case resulting in a Campus Safety Alert may be distributed via blast email, may be posted on the University website, may be shared with the Merciad newspaper for a follow-up story, and may be distributed by the Chief of Police or other members of the Campus Emergency Response Team (CERT), as deemed necessary and appropriate. Campus Safety Alert posters may also be posted by MUPD or Vice President for Student Life in campus buildings when deemed necessary. When Campus Safety Alerts are posted in campus buildings, they are printed on red paper and posted in lobby/entrance areas of key buildings for a time period determined by the Vice President for Student Life or Chief of Police.

Mercyhurst University professional staff are informed of their responsibility to share Alert information with their sponsored visitors and/or guests. Conference Services staff are instructed to inform conference attendees, camp counselors, and/or directors/leaders about Alerts and Alert posters that may be posted in areas or residence halls where conference or camp attendees are visiting and/or occupying.

Campus Safety Alerts may be distributed for any of the following Clery Act crime categories/classifications: murder and non-negligent manslaughter, sex offenses (rape, fondling, incest, and statutory rape), robbery, aggravated assault, burglary, arson, hate crimes, motor vehicle theft, domestic violence, dating violence, stalking, or arrests and referrals for liquor law, weapons law, and drug law offenses.

Alerts for the crimes of aggravated assault, motor vehicle theft, burglary, sex offenses, domestic violence, dating violence, stalking, and arrests or referrals for liquor, drug, and weapons offenses are considered on a case-by-case

basis and depend upon a number of factors. These include the nature of the crime, the timeliness of the report, and the continuing or ongoing danger to the campus community—such as whether the perpetrator was apprehended— and the possible risk of compromising law enforcement efforts. For example, if a physical assault occurs between two students who have a disagreement, there may be no continuing threat to other Mercyhurst university community members and a Campus Safety Alert would not be distributed.

In cases involving sex offenses that are reported long after the incident occurred, the University does not have an opportunity to react or respond in a timely manner. Sex offenses will be considered on a case-by-case basis depending on when and where the incident occurred, when it was reported, and the amount of information known by the MUPD.

Typically, alerts are not issued for any incidents reported that are older ten (10) days from the date of occurrence, as such a delay in reporting has not afforded the University an opportunity to react or respond in a timely manner.

MUPD supervisors confer with the Chief of Police or Lieutenant of Police during incidents to ensure a proper review of all criminal and/or serious incidents to determine if there is a continuing threat to the community and if the distribution of a Campus Safety Alert is warranted.

Campus officials not subject to the timely reporting requirement are those with significant counseling responsibilities who were providing confidential assistance to a crime victim. At Mercyhurst University, this would only apply to certified professional counselors from the Counseling Center and pastoral counselors who are performing that specific function and role as their primary employment with the University.

PUBLIC SAFETY NOTICES

A Public Safety Notice may be sent to the campus community for general crime prevention purposes, to inform the community of crimes and/or incidents that are not generally time sensitive or considered to be a continuing threat, but important to be aware of, and/or to inform the campus of incidents occurring on, around, or even off campus that do not meet the requirements or specifications for distribution of a Campus Safety Alert, as outlined above.

A Public Safety notice may be sent to the electronic campus community digests, or they may be sent via blast email to all students and employees on campus. A Public Safety Notice is generally written and distributed to the campus community by the Communications and Marketing Department, and they are routinely reviewed and approved by the Vice President for Student Life. These notices could also be sent by any member of the Campus Emergency Response Team (CERT) or cabinet level administrative official.

Updates to the campus community about any particular case resulting in a Public Safety Notice, when deemed necessary, may be distributed via blast email, posted on the University website, included in electronic campus digests, or may be shared with the Merciad newspaper for a follow-up story; and may be distributed by the Chief of Police or other member of CERT, as deemed necessary and appropriate.

DAILY CRIME AND FIRE LOG

The Mercyhurst University Police Department makes the Daily Crime and Fire Logs for the most recent 60-day period open to public inspection. The Department is located in the lower level of McAuley Hall and is open 24/7/365. Any portion of these crime and fire logs that are older than 60 days are made available for public inspection within two business days of a request. All confirmed fires occurring within or on any and all on-campus residential facilities will also be included in the Daily Crime and Fire Log. The information in the crime and fire log typically includes the incident number, crime classification or nature of the fire, date reported, date occurred, general location of crime or fire, and disposition of each reported crime or fire. Faculty, staff, and students are encouraged to review these logs periodically to become more familiar with the types and locations of criminal incidents and fires that may impact the University's campus community.

Unless the disclosure is prohibited by law or would jeopardize the confidentiality of the victim, newly reported crimes/incidents within the University's Clery geography and updated information regarding previously reported crimes are entered into the Daily Crime and Fire Log within two business days of when it is reported to the Department of Public Safety. It is important to note that MUPD has no jurisdiction outside of its identified Clery geography.

PREPARATION OF ANNUAL DISCLOSURE OF CRIME STATISTICS & CLERY COMPLIANCE

The following information provides context for the crime statistics reported as part of compliance with the Clery Act.

The Mercyhurst University Police Department is primarily responsible for preparing the Annual Security and Fire Safety Report. This responsibility is specifically designated to the Chief of Police or designee. The procedures for preparing the annual disclosure of crime statistics include reporting statistics to the University community obtained from the following sources: the Mercyhurst University Police Department (MUPD), the City of Erie Police Department (EPD), the North East Police Department (NEPD), the Pennsylvania State Police (PSP), the Erie County Sheriff's Office, the Erie County District Attorney's Office (DA), law enforcement agencies with jurisdiction for international and domestic non-campus property locations, and non-police or public safety personnel who have been designated as Campus Security Authorities or CSAs. The Residence Life / Student Conduct Office and Human Resources Department are key offices from which drug, liquor, and weapon offense referral data is obtained.

Final report preparation is coordinated by the Chief of Police with Human Resources, Residence Life, Student Conduct, Protective Services, the Title IX Coordinator, and the Institutional Analysis Office of the University.

A written request for statistical information is made at least on an annual basis to all Campus Security Authorities or CSAs (as defined by federal law). CSAs are also informed in writing and/or through training to report crimes to MUPD in a timely manner so those crimes can be evaluated for timely warning purposes. A Campus Security Authority or CSA is a Clery-specific term that encompasses four groups of individuals and organizations associated with an institution:

- A campus police department or a campus security department of an institution
- Any individual or individuals who have responsibility for campus security but who do not constitute a campus police department or a campus security department (e.g., an individual who is responsible for monitoring the entrance into an institutional property)
- Any individual or organization specified in an institution's statement of campus security policy as an individual or organization to which students and employees should report criminal offenses
- An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings. An official is defined as any person who has the authority and the duty to take action or respond to particular issues on behalf of the institution.

Statistical information is not requested from, nor is it provided by, Certified Counselors of the Counseling Center or Pastoral Counselors who are performing that function and role as their employment with the University. Certified Counselors and Pastoral Counselors are not required by law to provide statistics for this compliance document.

Counseling and Pastoral Professionals, as defined by the Federal law, who act in such capacities, have been advised that, while they are not obligated to report crimes for the purpose of compiling these statistics, they are encouraged, when they deem it appropriate, to inform the persons they are counseling of their ability to report any crimes to MUPD for inclusion in the annual statistics. The Counseling Center and Pastoral Counselors facilitate anonymous reporting, as outlined earlier in this Annual Security and Fire Safety Report.

All statistics are gathered, compiled, and reported to the University community via this report, entitled the "Annual Security and Fire Safety Report," which is published by MUPD no later than October 1st of each year. MUPD submits the annual crime statistics published in this brochure to the Department of Education (ED). The statistical information gathered by the Department of Education is available to the public through the ED website.

Table One of the crime statistics satisfies the reporting requirements described by Pennsylvania Statutes as outlined by the Pennsylvania Uniform Crime Reporting Act, and Table Two satisfies the requirements outlined by the Clery Act.

MUPD sends an email to every enrolled student and current employee on an annual basis informing them of the availability of the Annual Security and Fire Safety Report. The email includes a brief summary of the contents of this report. The email also includes the address for the MUPD website where the Annual Security and Fire Safety Report can be found online, and notification that a physical copy may be obtained by making a request to MUPD by calling (814) 824-3911 or in person at the MUPD in the lower level of McAuley Hall.

Specific Information about Classifying Crime Statistics:

The statistics in this brochure are published in accordance with the definitions and many of the standards and guidelines used by the FBI Uniform Crime Reporting Handbook, National Incident-Based reporting System (NIBRS), relevant federal law (the Clery Act), and applicable State law (the Pennsylvania Uniform Crime Reporting Act).

The Pennsylvania Uniform Crime Reporting Act (Table One):

The Pennsylvania Uniform Crime Reporting Act mandates the release of crime statistics and rates to matriculated students and employees, and, upon request, to new employees and applicants for admission. The index rates are calculated by multiplying the actual number of reported offenses by 100,000 (a theoretical population for comparison purposes) and dividing that product by the number of the University's Full Time Equivalent (FTE) students and employees. The statistics in Table One reflect the number of incidents reported to the University Police Department (but do not include reports from other campus security authorities, referrals from campus disciplinary authorities, or reports from local law enforcement, as required for Clery reporting in Table Two). They do not indicate actual crime prosecution or student disciplinary action, or the outcome of either. These State crime classification statistics are reported to the Pennsylvania State Police on an annual basis for publication in the Crime in Pennsylvania (Uniform Crime Report).

Clery Act Reporting (Table Two):

For Clery Act reporting purposes (Table Two), the number of victims involved in a particular incident is indicated in the statistics column for the following crime classifications: Murder/Non-Negligent Manslaughter, Manslaughter by Negligence, Sex Offenses, and Aggravated Assault. For example, if an aggravated assault occurs and there are three victims, this would be counted as three aggravated assaults in the crime statistics chart. The number reflected in the statistics for the following crime categories includes one offense per distinct operation: Robbery, Burglary, Larceny, Vandalism, and Arson. For example, if five students are walking across campus together and they are robbed, this would count as one instance of robbery in the crime statistics chart. In cases of Motor Vehicle Theft, each vehicle stolen is counted as a statistic. In cases involving Liquor Law, Drug Law, and Illegal Weapons violations the statistics indicate the number of people arrested by law enforcement or referred to the Office of Student Conduct for possible disciplinary action for violations of those specific laws.

Hate crimes are reported in narrative form and are separated by category of prejudice. A hate crime is not a separate, distinct crime, but is the commission of a criminal offense that was motivated by the offender's bias. For example, a subject assaults a victim, which is a crime. If the facts of the case indicate that the offender was motivated to commit the offense because of their bias against the victim's race, sexual orientation, gender, religion, ethnicity, national origin, gender identity, or disability, the assault is then also classified as a hate crime. For Clery Act Purposes, Hate Crimes include any of the following offenses that are motivated by the offender's bias: Murder and Non-negligent Manslaughter, Sexual Offenses (rape, fondling, incest and statutory rape), Robbery, Aggravated Assault, Burglary, Motor Vehicle Theft, Arson, Larceny-Theft, Simple Assault, Intimidation, and Destruction/Damage/ Vandalism of Property.

Campus SaVE was signed into law on March 7, 2013, as part of the reauthorization of the Violence Against Women Act (VAWA); it covers students and staff of institutions of higher education and amends the Jeanne Clery Act to

include new reporting requirements for Domestic Violence, Dating Violence, and Stalking and additional policy statements and training requirements.

Please note that the State crime classifications for which the university is reporting these statistics in Table One vary from the crime classifications under Federal law, as reported in accordance with the Clery Act reflected in Table Two published in this Annual Report. Because of these differing crime classifications and definitions, with only a few exceptions, the State crime statistics will rarely match the Federal crime statistics.

Geography Definitions from the Clery Act:

On-Campus *defined as*: (1) Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of or in a manner related to the institution's educational purposes, including residence halls; and (2) Any building or property that is within or reasonably contiguous to the area identified in paragraph (1), that is owned by the institution but controlled by another person, is frequently used by students and supports institutional purposes (such as a food or retail vendor).

Non-Campus Building or Property *defined as*: (1) any building or property owned or controlled by a student organization that is officially recognized by the institution (i.e. privately owned fraternity); or (2) Any building or property owned or controlled by an institution that is used in direct support of or in relation to the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.

The Non-Campus geography definition includes buildings or properties under temporary control during institutionally sponsored short-stay-away domestic or international trips for students of more than one night or buildings or properties under temporary control during institutionally sponsored domestic or international trips for students to repeated locations:

- For example, students in the debate club take a trip to Washington, D.C. and stay at the same hotel every year. In this example, the institution must include in their Clery Act crime statistics any Clery Act crimes that occur in the rooms used by the students and any common areas used to access those rooms, including the lobby, elevator and staircases.

Public Property *defined as*: All public property, including thoroughfares, streets, sidewalks, and parking facilities, that are within the campus or immediately adjacent to and accessible from the campus or on-campus property/facilities. The Mercyhurst University crime statistics do not include crimes that occur in privately-owned homes or businesses within or adjacent to the campus boundaries.

On-campus Student Housing Facility *defined as*: Any student housing facility that is owned or controlled by the institution, or is located on property that is owned or controlled by the institution, and is within the reasonably contiguous geographic area that makes up the campus is considered an on-campus student housing facility. This category is considered a subset of the On-Campus category.

Reasonably Contiguous *is defined in the 2016 Handbook for Campus Safety and Security Report as follows:* Refers to a building or property an institution owns or controls that is in a location that students consider to be, and treat as, part of the "campus." Generally speaking, it is reasonable to consider locations within one mile from the core or main campus border to be reasonably contiguous with the campus.

The Pennsylvania Uniform Crime Reporting Act (TABLE ONE)

Calendar Years 2019– 2021

The Pennsylvania Uniform Crime Reporting Act requires the release of crime statistics and crime rates to students and employees, and it requires that those statistics be available to applicants and new employees upon request. The rate is based on the actual number of Full Time Equivalent (FTE) students, faculty, and staff calculated according to a state-mandated formula. The index in the table below is based on incidents per 100,000 FTEs. The crime rates for 2019, 2020, and 2021 are established using population figures for the fall 2021 academic semester: 3296 total members of the community (standard rounding rules are applied).

Calendar Years	2019		2020		2021	
	ACTUAL	INDEX	ACTUAL	INDEX	ACTUAL	INDEX
Part One Offenses						
Murder & Non-Negligent Manslaughter	0	0	0	0	0	0
Manslaughter by Negligence	0	0	0	0	0	0
Rape	0	0	0	0	1	30
Robbery	0	0	0	0	0	0
Aggravated Assault	0	0	0	0	0	0
Other Assault Not Aggravated	0	0	1	36	4	121
Burglary	6	203	1	36	0	0
Theft - Larceny	18	608	8	285	9	273
Motor Vehicle Theft	0	0	0	0	0	0
Arson	1	34	0	0	0	0
TOTAL	25	845	10	356	14	424
Part Two Offenses						
Forgery	0	0	0	0	0	0
Counterfeiting	0	0	0	0	0	0
Fraud	0	0	2	72	1	30
Embezzlement	0	0	0	0	0	0
Stolen Property: Receiving, Possessing	0	0	0	0	0	0
Vandalism	15	507	12	427	8	243
Weapons: Carrying, Possessing	0	0	0	0	1	30
Prostitution	0	0	0	0	0	0
Other Sex Offenses	2	68	3	142	1	30
Drug Abuse Violations	49	1656	47	1672	37	1123
Gambling	0	0	0	0	0	0
Hate Crimes	0	0	0	0	0	0
Driving Under the Influence	0	0	0	0	0	0
Liquor Law	20	676	35	1245	37	1123
Drunkenness	13	439	0	0	0	0
Disorderly Conduct	9	304	0	0	8	243
Vagrancy	0	0	0	0	0	0
All Other Offenses*	22	743	11	321	29	880
TOTAL	130	4393	120	4270	122	3702

The statistics reported above reflect the number of incidents reported to the University's Police Department (but may not include reports from other campus security authorities, referrals from campus disciplinary authorities or reports from local law enforcement). They do not indicate actual criminal prosecution or student disciplinary action, or the outcome of either. Please note that the state crime classifications, definitions, and standards, which the University is reporting these statistics, may vary from the crime classifications, definitions, and standards under federal law, which are also published in this annual report. Therefore, state crime statistics may not match similar crime categories reported under federal law. *The "All other offenses" category includes harassment, harassment by communication, threats, unlawful restraint, loitering and prowling and trespass.

Campus Crime Statistics for Mercyhurst University (Table Two)

(Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act)

Calendar Years (CY) 2021-2020-2019

Offense (Crimes Reported By Hierarchy)	Calendar Year	On Campus (Including Residential)	Non-Campus	Public Property	Totals	On Campus (Residential Only)
Murder & Non - Negligent Manslaughter	2021	0	0	0	0	0
	2020	0	0	0	0	0
	2019	0	0	0	0	0
Manslaughter by Negligence	2021	0	0	0	0	0
	2020	0	0	0	0	0
	2019	0	0	0	0	0
Rape	2021	2	0	0	2	2
	2020	3	0	0	3	3
	2019	5	0	0	5	4
Fondling	2021	0	0	0	0	0
	2020	0	0	0	0	0
	2019	1	0	1	1	0
Incest	2021	0	0	0	0	0
	2020	0	0	0	0	0
	2019	0	0	0	0	0
Statutory Rape	2021	0	0	0	0	0
	2020	0	0	0	0	0
	2019	0	0	0	0	0
Robbery	2021	0	0	0	0	0
	2020	0	0	0	0	0
	2019	0	0	0	0	0
Aggravated Assault	2021	3	0	0	3	3
	2020	1	0	0	1	0
	2019	0	0	0	0	0
Burglary	2021	0	0	0	0	0
	2020	1	0	0	1	1
	2019	4	0	0	4	4
Arson	2021	0	0	0	0	0
	2020	0	0	0	0	0
	2019	1	0	0	1	0
Motor Vehicle Theft	2021	0	0	0	0	0
	2020	0	0	0	0	0
	2019	0	0	0	0	0

Offense (Crimes Reported By Hierarchy)	Calendar Year	On Campus (Including Residential)	Non-Campus	Public Property	Totals	On Campus (Residential Only)
Liquor Law Arrests**	2021	15	0	1	16	15
	2020	5	0	0	5	3
	2019	11	0	0	11	11
Drug Law Arrests**	2021	2	0	0	2	2
	2020	0	0	0	0	0
	2019	0	0	0	0	0
Weapons Law Arrests**	2021	1	0	0	1	1
	2020	0	0	0	0	0
	2019	0	0	0	0	0
Liquor Law Violations Referred for Disciplinary Action**	2021	122	0	0	122	122
	2020	287	0	0	287	284
	2019	106	0	0	106	106
Drug Law Violations Referred for Disciplinary Action**	2021	39	0	0	39	39
	2020	47	0	0	47	45
	2019	50	0	0	50	50
Weapons Law Violations Referred for Disciplinary Action**	2021	0	0	0	0	0
	2020	0	0	0	0	0
	2019	0	0	0	0	0
Domestic Violence	2021	0	0	0	0	0
	2020	0	0	0	0	0
	2019	0	0	0	0	0
Dating Violence	2021	2	0	0	2	2
	2020	1	0	0	1	1
	2019	2	0	0	2	2
Stalking	2021	1	0	0	1	1
	2020	0	0	0	0	0
	2019	0	0	0	0	0

"Reported crimes" are allegations of crimes reported in good faith to CSAs. These crimes do not have to be investigated or adjudicated in order to count as a reported crime statistic in the ASFSR. Reported crimes may involve individuals not associated or affiliated with Mercyhurst University. Reported Crimes may include information received from an anonymous reporting source. Residential Facility crime statistics are a subset of the On Campus category, i.e. they are counted in both categories.

Hate Crime Statistics	
2021	Zero (0) hate crimes, as defined by applicable federal law, were reported at Mercyhurst University in 2021.
2020	Zero (0) hate crimes, as defined by applicable federal law, were reported at Mercyhurst University in 2020.
2019	Zero (0) hate crimes, as defined by applicable federal law, were reported at Mercyhurst University in 2019.

Unfounded Crimes	
2021	Zero (0) unfounded crimes for calendar year 2021.
2020	Zero (0) unfounded crimes for calendar year 2020.
2019	1 unfounded crime of rape for calendar year 2019. Unfounded by Erie Police Dept. after investigation.

NOTE: The University made a reasonable and good faith effort to request and retrieve statistics from all local law enforcement agencies with jurisdiction over the University's identified Clery geography. Reportable Clery crime data received from agencies who responded to these requests are included in the Table Two crime statistics noted above. Not all of these agencies responded to these requests for crime statistics.

UNFOUNDED CRIMES

If a crime is reported as occurring On Campus, in On-campus Residential Facilities, in or on Non-campus buildings or property, or on Public Property, and the reported crime is investigated by law enforcement authorities and found to be false or baseless, the crime is considered to be "unfounded." Only sworn or commissioned law enforcement personnel may unfound a crime after a thorough investigative process.

IMMEDIATE OR EMERGENCY NOTIFICATION, EMERGENCY RESPONSE, AND THE EMERGENCY MASS NOTIFICATION SYSTEM (EMNS)

In the event of an emergency, an effective Campus-wide communications process is vital in order to provide the greatest safety possible for the University community. As part of its Emergency Management Operations, the University has adopted a formalized procedure for issuing immediate notifications to the campus community.

The immediate notification capability of the emergency mass notification system is designed to assist the University in immediately notifying the campus community upon confirmation of a significant emergency or dangerous situation occurring on or near the campus that involves an immediate threat to the health or safety of students or employees.
A threat is imminent when the need for action is instant, overwhelming, and leaves no moment for deliberation. Such situations would include, but are not limited to, a hazardous materials incident requiring shelter-in-place or evacuation, an armed intruder on or near campus, an approaching tornado, or a fire actively raging in a campus building.

The University will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification system to the appropriate segment or segments of the campus community, unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate an emergency.

Immediate notification to the campus can be accomplished through a variety of communication methods, but the use of the emergency cell phone text, all campus email, select in-building audible voice notification devices and/or alert siren would be seen as the most common and quickest form of communication under these circumstances. Confirmation typically involves the response and assessment of Police officers, University officials, local police, or emergency responders.

When on-duty Mercyhurst University police officers become aware of a situation that may warrant the issuing of an immediate notification, the on-duty police officer confirms (through response, investigation, or collaboration with emergency responders) that there is a significant emergency and then immediately contacts the Chief of Police or Lieutenant, who quickly evaluates the situation to determine if an alert is warranted, develops the content of the notification message, and then identifies the appropriate segment or segments of the campus community who will receive the notification. The Chief of Police or Lieutenant has the ability and authority to issue an alert without delay and without further consultation with any other University official. Notification message content is determined based on the type of incident, the context with which it is occurring, and the immediate danger or threat to the campus community and the need to advise campus community members to take action. The University will endeavor to make such notification sufficiently specific so as to enable recipients to take an appropriate response to the threat. Precanned messages have been prepared as part of the emergency notification system to aid in rapid communication processes. In situations lacking the presence of an imminent threat, the Chief of Police or Lieutenant consults with the President, Vice President for Student Life and Provost, and/or other members of the Campus Emergency Response Team (CERT) prior to an alert being issued.

Follow-up notices/communications will be provided as necessary during an active incident and may be provided by the Chief of Police or Lieutenant or a member of CERT. When a threat is neutralized or effectively removed, campus community members will be appropriately informed via all or some of the aforementioned communication methods.

University authorities may instruct campus community members to "shelter-in-place" if a condition exists that is potentially life threatening and has an immediate threat to the health and personal safety of the campus community. Immediate threats would include, but are not limited to: active shooter incidents, mass acts of violence, tornadoes, terrorist attacks, or hazardous materials incidents.

Shelter-in-place means to take immediate shelter wherever you happen to be at the time of a shelter-in-place notification – in campus housing, in privately-owned housing near campus, in an academic or administrative building, etc. Community members should remain in a shelter-in-place status until the all-clear is communicated by emergency response personnel via an emergency rapid communication system(s).

How to Shelter-In-Place:

- If you can safely evacuate a potentially dangerous or hazardous situation, do so immediately. If you cannot safely evacuate and you are inside, stay where you are. Collect any emergency shelter-in-place supplies and a telephone to be used in case of emergency. If you are outdoors, proceed into the closest building quickly or follow instructions from emergency personnel.
- Locate a room to shelter inside. It should be:
    - an interior room;
    - above ground level; and
    - without windows or with the least number of windows. If there is a large group of people inside a particular building, several rooms may be necessary.
- Shut and lock, if possible, all windows (tighter seal) and close exterior doors. Doors and windows may need to be barricaded, if possible.
- Turn off air conditioners, heaters, and fans.
- Close vents to ventilation systems as you are able.
- Make a list of people with you and ask someone to call the list into DPS to inform them where you are sheltering.
- Turn on a radio or TV and listen for further instructions.
- Make yourself comfortable.

Off-campus Emergencies:

Mercyhurst officials often receive emergency information from the Erie County 911 Center regarding incidents in Erie County that could imminently impact the safety of the Mercyhurst University community. When appropriate, the University notifies the campus community of off-campus threats that could also represent a threat to the health or safety of students or employees.

Emergency Mass Notification System (EMNS) Testing and Registration:

The Emergency Mass Notification System (e2campus) will be tested at least each academic semester to ensure that all systems are working properly and that emergency managers maintain a working knowledge of the system. These tests will also be educational moments for the campus community to remind them that this system does exist, and that it is a working and functioning system that they can rely upon. In conjunction with at least one of the annual EMNS test notifications, information is shared with the campus community related to the campus' emergency response and evacuation procedures.

Students, staff, and faculty are informed of the University's e2campus program and evacuation processes annually during training and through written notification. This includes dissemination of information about how to respond during a significant incident on campus or within the immediate area of the campus that potentially directly impacts the safety of campus community members. These information sessions have been built into first-year orientation, residence life student staff training, and new employee/faculty orientations. Public Safety

officers additionally test evacuation procedures for all residence halls, and academic/administrative buildings at least once each semester as part of Public Safety's fire drill and safe evacuation programs. These tests are usually announced tests, but they may be unannounced. Available student cell phone numbers are loaded into the cell/text notification system upon their registration for classes.

Faculty and Staff participation is optional. Faculty and Staff must register through e2campus:

- Go to: WEB ADVISOR
- Click on the Miscellaneous Section
- Opt-out/update information for e2campus.
- You can also follow this same procedure to register a new cell phone number.

The University's means of communicating during emergency situations includes the following, although not all these methods are always employed. The communication method used would depend on the type of emergency:

- Cell phone Text Messaging
- Audible Notification Systems within Select Campus Buildings
- All Campus Email Alerts
- Voice-Mail
- Computer Instant Pop-Up Emergency Screen Messages
- Emergency Website, Facebook, and Twitter Accounts
- Telephone Trees
- Public Media (TV, radio, news websites)
- Fire Alarm System Notification
- Public Address System from Siren and from Police Vehicles
- Flyers posted throughout Campus
- Direct On-foot and In-person Notifications

EVACUATION PROCEDURES

Mercyhurst University Police Department shall be responsible for the safe evacuation of all persons utilizing the University's facilities in the event of natural disasters, civil disturbances, and active threats. The level of necessity will determine the response by MUPD. If large scale events occur that are beyond the resource capabilities of MUPD and the University; officials will request assistance from outside emergency resources such as the City of Erie Police and Fire, State Police, Erie County Emergency Management, and/or state departments of emergency management. The need to implement evacuation from a campus building or the entire campus shall be based upon information received by or furnished to Mercyhurst University.

The information may be in the form of instructions or advice from the Erie County Emergency Management Agency, the Governor's Office, or other officially recognized agency. Full or partial evacuations may be necessary as a protective action to reduce campus community members' exposure to a hazard. Protective actions reduce TIME of exposure, create DISTANCE, or provide SHIELDING from a specific hazard. Hazards that may require an evacuation include:

- Fire
- HAZMAT release
- Bomb threat or suspicious device/package
- Hostile intruder
- Massive utility failure
- Severe weather conditions
- Hazard that renders facilities uninhabitable

Exercise of Judgment and Contingencies: The actions described are basically standard by nature. When situations arise for which the procedures to be followed are not fully prescribed in the University's Emergency Response

Plan (ERP), responsible personnel will be expected to exercise good judgment, make appropriate decisions, and provide any support necessitated by the situation.

As part of the decision-making process relative to an evacuation, the evacuation must be able to be completed well before the arrival of a hazard. When there is little to no warning time, a shelter-in-place decision/order may be more appropriate. Additional factors to consider beyond warning time when deciding on whether or not to evacuate include:

- Size and geographical area affected
- Population density of the surrounding area
- Capacity and condition of the road network
- Are sufficient transportation resources available – University transportation, public transportation, and private transportation?
- Are there safe alternatives?
- Ability of campus facilities to provide shielding from the hazard
- Ability of facilities to support the population
- Local considerations and local police and emergency resources support

Scope of an Evacuation: The scope of an evacuation can include a single building, a group of buildings, and/or a large geographical area. The scope could go beyond the borders of the institution, and/or the University may be impacted by an evacuation initiated by the local authorities. Size and scope considerations must be included in the overall decision-making process.

Building Evacuation:

- All building occupants are required to evacuate when the fire alarm sounds or upon the order of an authorized University official, such as a Police officer.
- If time permits, stabilize lab procedures, turn off stoves and ovens, and unplug or disable any device that could make a dangerous situation even worse.
- Move to the closest exit and proceed down the EXIT stairwell in a safe and orderly manner. Take personal belongings with you. Do NOT use elevators.
- Remain at least three hundred (300) feet outside of the building and await further instructions. Keep roadways open, and beware of approaching emergency vehicles. Notify emergency responders of anyone trapped, especially anyone with a physical disability.

Large-scale Campus Evacuation:

- If evacuation of part or all of the campus is necessary, monitor text message system, email, and the University's website for additional information.
- Those in need of transportation will be directed to areas to await transport to an off-campus site.

EMERGENCY PREPAREDNESS OVERVIEW

Emergency preparedness at Mercyhurst is managed by the University's Emergency Response Plan (ERP) and Program and Campus Emergency Response Team (CERT). Emergency operations planning at Mercyhurst University means preventing, preparing for, responding to, and recovering from any and all emergencies that could affect the Mercyhurst University and local Erie communities. It means having a comprehensive plan extending from all levels of emergency personnel down through the individuals that make up our community to prevent situations that cause emergencies; it means preparing people on the procedures to follow, should a crisis occur; it means having a well collaborated response approach from University and local officials and State and Federal agencies to effectively mitigate any crisis; and it means being ready and able to recover quickly from emergency events in order to keep the operations and business continuity of Mercyhurst University moving forward.

CAMPUS EMERGENCY RESPONSE TEAM (CERT)

All emergency incidents occurring on campus or impacting the University campus community will be managed using the Incident Command System (ICS) and the National Incident Management System (NIMS) as outlined by Federal and State agencies.

The primary responsibility for responding to emergencies on Mercyhurst University campus rests with the Mercyhurst University Police Department (MUPD), local emergency services, and the President of the University. The Campus Incident Management System or CERT – Campus Emergency Response Team - is the established protocol for managing all aspects of an incident. MUPD, along with other University departments and the emergency services organizations, plays an essential role as the first line of defense. In responding to an emergency or disaster, Mercyhurst University will make full use of the facilities, equipment, supplies, personnel, and resources of the University. The University President, as chief executive, has the authority to direct and coordinate disaster operations and may delegate this authority to an emergency manager. Incident Command is established when an authorized individual (usually a MUPD officer or supervisor, fire chief, police officer) is onsite and communicates their authority with all personnel involved.

If a situation arises on or around campus that could potentially threaten the health or safety of University community members, senior officers of the University, members of CERT, and members of Police Department are immediately summoned as part of Mercyhurst crisis response procedure.

Public Safety officers, supervisors, and administrators are trained in crisis response and have the authority to take immediate action in response to an imminent crisis, using the Emergency Response Plan (ERP) and departmental procedures as a guideline.

These actions may include:

- Deployment of additional police officers
- Engagement of law enforcement officials
- Summoning of local, county, or state emergency management officials
- Enhanced patrol of the campus
- Closing of roads and entrances onto campus
- Securing of campus buildings and residence halls
- Evacuation of campus buildings and residence halls

There is one Incident Commander (IC) for an incident. When more than one jurisdiction or one agency is involved, a Unified Command structure will be established. Command will function from an Incident Command Post (ICP). Certain "triggering" conditions may dictate a broader institutional response. This broader response will be managed from an Emergency Operations Center (EOC) by the CERT.

When an Emergency Operations Center (EOC) is established, CERT will assume a policy, direction, and coordination role over the institution’s response and recovery. The EOC will act as an umbrella organization that brings together all of the elements necessary to support the incident and maintain ongoing operations. Command will remain with the Incident Commander or Unified Command group.

The CERT consists of two groups, the Core group and the Advisory group. The Core Group Members are the policy decision-makers and include the President and senior staff. The members of CERT are institutional emergency incident resources and potential responders; they are not persons to whom community members should report crimes.

The CERT composition is as follows:

- Core Incident Command Group
    - Provost
    - Vice President for Student Life
    - Director of Residence Life and Conduct or their designee

- Chief of Police
- Director of Marketing
- Executive Communications Officer
- Executive Director of Wellness
- Chief Information Officer
- Director of the Physical Plant
- General Counsel (as needed)

TESTING, EXERCISE PREPAREDNESS DRILLS, AND TABLE-TOP EXERCISES

In accordance with the institution's Emergency Response Plan (ERP), Mercyhurst University will use its emergency procedures and plans for testing emergency notification, response, and evacuation. A test is defined as regularly scheduled drills, exercises, and appropriate follow-through activities, designed for assessment and evaluation of emergency plans and capabilities.

CERT will perform periodic table-top exercises (at least one per year) in order to practice the implementation of the campus' emergency operations plan and supplement emergency policies and procedures and to assess and evaluate emergency plan capabilities. Additionally, divisional and department level exercises are regularly initiated to train staff personnel on emergency operations. During CERT exercises, the campus evacuation plan is either reviewed or practiced as part of the training session. The Vice President for Student Life, in coordination with the Office of the President, will be responsible for scheduling and conducting these table-top exercises. As a minimum, one CERT Table-Top exercise per academic year will occur with the entire CERT Group. Additionally, local emergency responders from the Fire and Police Departments, Area Hospitals, and Erie County Emergency Management Agency (EMA) may be invited to participate along with college officials during one table-top each year. Exercises can be either announced or unannounced.

After-Action Reports of Tests /Exercises: After-action reviews will be conducted following each test and/or exercise that documents the test/exercise, provides a description for each test/exercise, the date, time, and whether the test was announced or unannounced.

ALCOHOL/DRUG POLICIES AND THE POINTS SYSTEM

In accordance with the federal Drug-Free Workplace Act of 1988, the federal Drug-Free Schools and Communities Act (DFSCA) of 1989, and State policies on Alcohol and Other Drugs, Mercyhurst University prohibits the unlawful or unauthorized possession, use, sale, manufacture, distribution, or dispensation of alcohol and other drugs by employees and students in the workplace, on University property, or as part of any campus activity. Employee or student violators are subject to disciplinary action, up to and including termination of employment and expulsion.

The University Police Department reports violations of law to the appropriate University department and works in collaboration with the state and local police, enforcing the laws of the Commonwealth of Pennsylvania, including laws relative to the possession, use, and sale of alcoholic beverages. This includes the enforcement of State underage drinking laws and Federal and State drug laws. Student violations of the policies and guidelines pertaining to alcohol and drugs specified in the Mercyhurst University Handbook of Student Rights and Responsibilities will result in sanctions appropriate to the degree of the violation. Sanctions will increase in severity for repeated violations. Student sanctions will include, but are not limited to, points, fines, education, referrals for counseling, community service, probations, residence hall separation, or suspension or expulsion from the University.
Commonwealth law states that a person who is under 21 years of age and who attempts to purchase, purchases, consumes, possesses, or who knowingly and intentionally transports any alcohol, liquor, or malt beverages commits a summary offense. Misrepresentation of age to a licensed dealer or other persons who sell or furnish intoxicating liquors constitutes a summary offense for a first violation and a misdemeanor of the third degree for any subsequent violation. A person also commits a third-degree misdemeanor for selling or providing alcoholic beverages to a known minor.

There are also serious legal repercussions for driving under the influence of alcohol. Drivers under the age of 21 with a BAC of .02 or higher will be charged with Driving Under the Influence. Drivers 21 and over with a BAC of .08 or higher will be charged with Driving Under the Influence. Locally, there are City open container and noise ordinances.

The use of narcotics and controlled substances without a prescription on Mercyhurst University premises, as elsewhere, is illegal. Illegal possession, use, and/or sale of drugs or narcotics by students, employees, or guests constitutes unacceptable and illegal conduct. The Mercyhurst University Police Department reports violations of law to the appropriate University department and works in collaboration with state and federal law enforcement and local police, enforcing the laws of the Commonwealth of Pennsylvania, including laws relative to the possession, use, and sale of narcotics and controlled substances. When students are receiving Federal Title IV financial aid (including Federal Pell Grants and Federal Direct Student Loans), it is their responsibility to inform the Financial Aid Office within five days of any criminal illegal drug statute conviction. Students also agree to abide by the conditions of the drug-free workplace certifications.

The Points System was designed in order to provide clarity around how the University will respond to alcohol, drug, and related violations. Students will meet with the appropriate student conduct administrator or hearing body to determine if a violation of policy did occur. Once this determination is made, the corresponding number of points and other required sanctions will be assigned. Students will receive this information from the student conduct administrator in writing, once the administrative or Student Conduct Review Board hearing is complete. Anyone having questions about the Points System should contact the Office of Student Conduct Office at x2422 or visit them in Egan Hall 3rd Floor.

The Code of Student Conduct also specifies the prohibitions and penalties for violations of these prohibitions and is part of the Student Handbook, which is published under a separate cover and is available through the Office of residence Life and Student Conduct.

The Handbook can also be found online at: https://www.mercyhurst.edu/handbook

Drug Free Schools and Communities Act (DFSCA) Compliance:

The Mercyhurst University's Drug Free Schools and Communities Act (DFSCA) report is sent to all students, staff and faculty annually. Additional alcohol and drug policies, standards of conduct, applicable disciplinary sanctions, health risks, counseling and treatment, processes, goals, and objectives can be found on the Mercyhurst student and employee hub pages and within the student and employee handbooks. The biennial report, developed in accordance with the Drug Free Schools and Communities Act (DFSCA) of 1989, can be obtained from the Vice President for Student Life, located in Egan, or by calling (814) 824-2262.

ALCOHOL AND OTHER DRUGS (AOD) EDUCATION AND OUTREACH

- The University prohibits or limits student social events with alcohol during the first 2-3 weeks of the fall semester.
- The University requires all incoming First Year students to complete an online educational tutorial
- The University provides substance-free housing. Upper-class students can elect to live in a building devoted to substance free, healthy living. First Year students can elect to live with a roommate who also subscribes to a substance-free lifestyle.
- Through non-alcoholic programming, student organizations and student government promote healthy norms.
- The Residence Life staff conducts one-on-one chats with all First Year students to openly discuss issues of alcohol use in order to promote a healthy self and environment
- The University uses a points system when working with students who violate the University's alcohol policies, and all First Year students participate in a session at orientation introducing the University's alcohol policy and point system. The points system is designed to facilitate good decision making on the

part of students surrounding issues of alcohol use. The points system places a higher point value on less healthy decisions, e.g., driving under the influence, and less risky behaviors tend to result.

- Educational sanctions and Point Forgiveness Opportunities for violations of University policy can be completed with a Drug and Alcohol Counselor with approval from Student Conduct.
- The University's social event policy requires that organizations, register events with alcohol. Organizations are required to have TIPS servers. In addition, the Department of Public Safety conducts pre- and post-event walkthroughs. Quantities of alcohol are also limited by the number of people expected to attend the event.
- The University has a venue where it serves alcohol to students. Students are required to show that they are 21 years of age or older. In addition, students are limited to one drink (beer or wine) for every hour of the event. Events involving the University serving alcohol must be approved by a committee of student affairs administrators. These events are limited to Friday and Saturday nights.

VIOLENCE AGAINST WOMEN (VAWA) REAUTHORIZATION

SEXUAL MISCONDUCT POLICIES, SERVICES, RESOURCES, AND PROTOCOLS

Mercyhurst University prohibits the crimes of domestic violence, dating violence, sexual assault, and stalking (as defined by the Clery Act) and reaffirms its commitment to maintaining a campus environment that emphasizes the dignity and worth of all members of the University community. Toward that end, Mercyhurst University issues a statement of policy to inform the campus community of our programs to address domestic violence, dating violence, sexual assault and stalking as well as the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking, which will be followed regardless of whether the incident occurs on or off campus when it is reported to a University official.

Federal Clery Act Definitions of Domestic Violence, Dating Violence, Sexual Assault, and Stalking

The Clery Act uses the Violence Against Woman Act of 1994 definitions of the crimes of domestic violence,

dating violence, sexual assault and stalking as follows:

- **Domestic Violence**:
    - A Felony or misdemeanor crime of violence committed—
        1. By a current or former spouse or intimate partner of the victim;
        2. By a person with whom the victim shares a child in common;
        3. By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
        4. By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
        5. By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
            i. For the purposes of complying with the requirements of this section and §668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

- **Definition of a Crime of Violence**: According to Section 16 of Title 18 of the United States Code, the term "crime of violence" means:

    1. An offense that has as an element of the use, attempted use, or threatened use of physical force against the person or property of another; or

    2. Any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

- **Dating Violence**: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

    1 The existence of such a relationship shall be based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

    2 For the purposes of this definition—

        i. Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.

        ii. Dating violence does not include acts covered under the definition of domestic violence.

    1. For the purposes of complying with the requirements of this section and §668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

- **Sexual Assault**: An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting (UCR) program. Per the National Incident-Based Reporting System User Manual from the FBI UCR Program, a sex offense is "any sexual act directed against another person, without the consent of the victim, including instances where the victim if incapable of giving consent." **Rape** is defined as the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

- **Fondling** is defined as the touching of the private parts of another person for the purposes of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

    - **Incest** is defined as sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

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

- **Stalking**:
    - Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

        1. Fear for the person's safety or the safety of others; or

        2. Suffer substantial emotional distress.

    - For the purposes of this definition—

        1. *Course of conduct* means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

        2. *Reasonable person* means a reasonable person under similar circumstances and with similar identities to the victim.

3. *Substantial emotional distress* means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

- For the purposes of complying with the requirements of this section and section 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

Jurisdictional Definitions of Domestic Violence, Dating Violence, Sexual Assault, and Stalking

- **Sexual Assault**: The state of Pennsylvania defines sexual assault as follows:
  - **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 victim. Statutory offenses (no force used —victim under age of consent) are excluded.
  - **Sex offenses** (except rape, prostitution, and commercialized vice) —Statutory rape, offenses against chastity, common decency, morals, and the like. Attempts are included.

- **Domestic Violence/Abuse**: Pennsylvania law defines domestic abuse as knowingly, intentionally or recklessly causing bodily injury of any kind, causing fear of bodily injury of any kind, assault (sexual or not sexual), rape, sexually abusing minor children, or knowingly engaging in a repetitive conduct toward a certain person that puts them in fear of bodily injury. These acts can take place between family or household members, sexual partners or those who share biological parenthood in order to qualify as domestic abuse.

- **Dating Violence**: The state of Pennsylvania does not have a definition of dating violence.

- **Stalking: Pennsylvania law defines stalking** when a person either:
  1. engages in a course of conduct or repeatedly commits acts toward another person, including following the person without proper authority, under circumstances which demonstrate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person; or
  2. engages in a course of conduct or repeatedly communicates to another person under circumstances which demonstrate or communicate either an intent to place such other person in reasonable fear of bodily injury or to cause substantial emotional distress to such other person.

- **Consent:** The state of Pennsylvania defines ineffective consent as:
  - **Ineffective consent —** Unless otherwise provided by this title or by the law defining the offense, assent does not constitute consent if:
    1. it is given by a person who is legally incapacitated to authorize the conduct charged to constitute the offense;
    2. it is given by a person who by reason of youth, mental disease or defect or intoxication is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense;
    3. it is given by a person whose improvident consent is sought to be prevented by the law defining the offense; or
    4. it is induced by force, duress or deception of a kind sought to be prevented by the law defining the offense.

The state additionally provides descriptors commonly associated with consent as part of its full definition when describing the offense of Rape.

- **Rape Offense defined —** A person commits a felony of the first degree when the person engages in sexual intercourse with a complainant:
    1. By forcible compulsion;
    2. By threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;
    3. Who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring;
    4. Where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;
    5. Who suffers from a mental disability which renders the complainant incapable of consent.

Further, under Clery and UCR (Uniform Crime Reporting) definitions, the Pennsylvania Crimes Code sections relating to sexual assault (PA CS Title 18, Subsection 3124.1), involuntary deviate sexual intercourse (PA CS Title 18, Subsection 3123) and aggravated indecent assault (PA CS Title 18, Subsection 3125) are considered rape for the purposes of Clery and PA UCR reporting.

- **Other Sex Offenses** (except rape, prostitution, and commercialized vice) **—** Statutory rape, offenses against chastity, common decency, morals, and the like. Attempts are included.

Mercyhurst University's Definition of Consent as it Relates to Sexual Activity is as follows:

Consent is an informed decision made freely and actively through words or actions that demonstrates an affirmative, knowing, and voluntary agreement to engage in a sexual act. The need to obtain consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

Because sexual misconduct is defined as sexual activity that is undertaken without consent, each participant must obtain and give consent to each sexual act. Students are strongly encouraged to talk with each other before and during any sexual interaction. Relying solely on non-verbal communication can lead to miscommunication. Students are strongly advised to avoid any ambiguity in obtaining and giving consent.

Although all parties must give their consent to any sexual act and it is the best practice for both partners to be responsible for confirming that they have obtained the other's consent, it is the responsibility of the person initiating the sexual act to obtain consent from the other.

How to Be an Active Bystander:

Bystander intervention means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene.

Bystanders play a critical role in the prevention of sexual and relationship violence. They are "individuals who observe violence or witness the conditions that perpetuate violence. They are not directly involved but have the choice to intervene, speak up, or do something about it." We want to promote a community culture of accountability where bystanders are actively engaged in the prevention of violence without causing further harm. We may not always know what to do even if we want to help. Below is a list of some ways to be an active bystander. If you or someone else is in immediate danger, call MUPD at (814) 824-3911 or the local police by dialing 911. This could be when a person is yelling at or being physically abusive towards another and it is not safe for you to interrupt.

1. Watch out for your friends and fellow students/employees. If you see someone who looks like they could be in trouble or need help, ask if they are ok.

2. Be direct, delegate responsibility, or cause a distraction when you see another person seclude, hit on, attempt to make out with, or have sex with people who are incapacitated.
3. Intervene when someone discusses plans to take sexual advantage of another person.
4. Believe someone who discloses sexual assault, abusive behavior, or experience with stalking.
5. Refer people to on- or off-campus resources listed in this document for support in health, counseling, or with legal assistance.

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[1] Burn, S.M. (2009). A situational model of sexual assault prevention through bystander intervention. *Sex Roles, 60*, 779-792. [2] Bystander intervention strategies adapted from Stanford University's Office of Sexual Assault & Relationship Abuse

Risk Reduction:

With no intent to victim blame and recognizing that only abusers are responsible for their abuse, the following are some strategies to reduce one's risk of sexual assault or harassment (taken from Rape, Abuse, & Incest National Network, www.rainn.org)

- Be aware of your surroundings. Knowing where you are and who is around you may help you to find a way to get out of a bad situation.
- Try to avoid isolated areas. It is more difficult to get help if no one is around.
- Walk with purpose. Even if you don't know where you are going, act like you do.
- Trust your instincts. If a situation or location feels unsafe or uncomfortable, it probably isn't the best place to be.
- Try not to load yourself down with packages or bags as this can make you appear more vulnerable.
- Make sure your cell phone is with you and charged and that you have cab money and/or an on-demand driver app loaded.
- Don't allow yourself to be isolated with someone you don't trust or someone you don't know.
- Avoid putting music headphones in both ears so that you can be more aware of your surroundings, especially if you are walking alone.
- When you go to a social gathering, go with a group of friends. Arrive together, check in with each other throughout the evening, and leave together. Knowing where you are and who is around you may help you to find a way out of a bad situation.
- Trust your instincts. If you feel unsafe in any situation, go with your gut. If you see something suspicious, contact law enforcement immediately (local authorities can be reached by calling 911 in most areas of the U.S.).
- Don't leave your drink unattended while talking, dancing, using the restroom, or making a phone call. If you've left your drink alone, just get a new one.
- Don't accept drinks from people you don't know or trust. If you choose to accept a drink, go with the person to the bar to order it, watch it being poured, and carry it yourself. At parties, don't drink from the punch bowls or other large, common open containers.
- Watch out for your friends, and vice versa. If a friend seems out of it, is way too intoxicated for the amount of alcohol they've had, or is acting out of character, get him or her to a safe place immediately.
- If you suspect you or a friend has been drugged, contact law enforcement immediately (local authorities can be reached by calling 911 in most areas of the U.S.). Be explicit with doctors so they can give you the correct tests (you will need a urine test and possibly others).
- If you need to get out of an uncomfortable or scary situation, here are some things that you can try:
  - Remember that being in this situation is not your fault. You did not do anything wrong, it is the person who is making you uncomfortable that is to blame.
  - Be true to yourself. Don't feel obligated to do anything you don't want to do. "I don't want to" is always a good enough reason. Do what feels right to you and what you are comfortable with.

- Have a code word with your friends or family so that if you don't feel comfortable you can call them and communicate your discomfort without the person you are with knowing. Your friends or family can then come to get you or make up an excuse for you to leave.
- Lie. If you don't want to hurt the person's feelings it is better to lie and make up a reason to leave than to stay and be uncomfortable, scared, or worse. Some excuses you could use are: needing to take care of a friend or family member, not feeling well, having somewhere else that you need to be, etc.

- Try to think of an escape route. How would you try to get out of the room? Where are the doors? Windows? Are there people around who might be able to help you? Is there an emergency phone nearby?
- If you and/or the other person have been drinking, you can say that you would rather wait until you both have your full judgment before doing anything you may regret later.

Programs to Prevent Domestic Violence, Dating Violence, Sexual Assault, and Stalking:

The University engages in comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault, and stalking that:

- Are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research, or assessed for value, effectiveness, or outcome; and
- Consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community and societal levels.

Mercyhurst University's educational programming consists of primary prevention and awareness programs for all incoming students and new employees and ongoing awareness and prevention campaigns for students that:

- Clearly communicate that the institution prohibits the crimes of domestic violence, dating violence, sexual assault, and stalking (as defined by the Clery Act);
- Provide the definitions of domestic violence, dating violence, sexual assault, and stalking according to any applicable jurisdictional definitions of these terms;
- Define consent and describe what behaviors and actions constitute consent, in reference to sexual activity as defined by the student and employee codes of conduct;
- Provide a description of safe and positive options for bystander intervention. Bystander intervention means safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of dating violence, domestic violence, sexual assault, or stalking. Bystander intervention includes recognizing situations of potential harm, understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene;
- Provide information on risk reduction. Risk reduction means options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence;
- Provide an overview of information contained in the Annual Security and Fire Safety Report in compliance with the Clery Act;
- Provide information regarding:
  - procedures victims should follow if a crime of domestic violence, dating violence, sexual assault, or stalking occurs (as described in "Procedures Victims Should Follow if a Crime of Domestic Violence, Dating Violence, Sexual Assault and Stalking Occurs" elsewhere in this Annual Report);
  - how the institution will protect the confidentiality of victims and other necessary parties (as described in "Assistance for Victims: Rights and Options" elsewhere in this Annual Report);
  - existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both in the institution and in the community (as described in "Assistance for Victims: Rights and Options" elsewhere in this Annual Report);

- options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures (as described in "Assistance for Victims: Rights and Options" elsewhere in this Annual Report); and
- procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking (as described in "Adjudication of Violations" elsewhere in this Annual Report).

Primary Prevention and Awareness Programs:

The University provides primary prevention and awareness programs to all incoming students and employees that involves the distribution of educational materials to new students, participating in and presenting information and materials during new student and employee orientations, providing programs by invitation at staff meetings, academic programs, or residence hall programming, and requiring incoming first-year students to take online courses related to sexual assault and high risk drinking awareness and education. These trainings include:

- Clearly articulated statements that the University prohibits the crimes of domestic violence, dating violence, sexual assault, and stalking.
- The Federal and State definitions of domestic violence, dating violence, sexual assault, and stalking.
- The University and State definitions of consent.
- A description of safe and positive options for bystander intervention.
- Information on specific risk reduction strategies.

Ongoing Prevention and Awareness Campaigns:

The University provides an annual educational campaign for all students and employees designed to provide ongoing education and programming around issues of sexual violence – including sexual assault, domestic violence, dating violence, and stalking. Campaign strategies employed include face-to-face presentations, online training programs, printed materials, and related lectures.

Ongoing prevention and awareness campaigns include welcome week speakers; domestic violence month events and activities; sexual assault awareness month, which includes participation in an annual community "Take Back the Night" event; Step Up! and One Love bystander intervention programming; programming specific to developing healthy relationships; and education seminars on the healthy relationship's curriculum created in conjunction with community partners.

The following are some specific examples of annual programs currently offered by the University. This list is not all inclusive:

- Online Education
  - An online sexual assault prevention course is required of all freshmen students to learn effective ways to prevent and report sexual assault on our campus.
- Orientation Programing
  - Incoming first year students participate in information sessions about healthy relationships, the sexual misconduct policy, consent, bystander intervention, and campus and community specific resources. New faculty and employees receive Clery Act and Title IX information during their orientation programs.
- Extended Orientation Programming
  - Incoming first year students take an introduction to Mercyhurst course that addresses civility, sexual violence, bystander intervention, and other topics to introduce the class to the university.
- Step Up! Bystander Intervention Workshops
  - Step Up! Bystander Intervention Presentations help people understand what stops us from intervening in potentially harmful situations and provides tools to intervene. Bystander Intervention workshops cover bystander effect and ways to decide to act when we see someone in need. Participants leave with practical tips to intervene.
- Healthy Relationships Curriculum
  - Healthy Relationships Curriculum functions on a series of educational modules about relationships: with others (intimate partnerships, dating, ending relationships) and with the self (knowing

boundaries, finding one's voice to set boundaries, discerning what is appropriate for the individual, etc.).

Procedures Victims Should Follow if a Crime of Domestic Violence, Dating Violence, Sexual Assault, or Stalking Occurs

After an incident of sexual assault, dating violence, or domestic violence, the victim should consider seeking medical attention as soon as possible from a local Hospital Emergency Department. Sexual Assault Nurse Examiners (SANE) at the hospital are trained and certified in physical evidentiary recovery kit collection. Evidence may be collected, even if the victim chooses not to make a report to law enforcement.

It is important that a victim of sexual assault not bathe, douche, smoke, change clothing or clean the bed/linen/area where they were assaulted if the offense occurred within the past 96 hours, so that evidence may be preserved that may assist in proving that the alleged criminal offense occurred/or is occurring, or may be helpful in obtaining a protection order. In circumstances of sexual assault, if victims do not opt for forensic evidence collection, health care providers can still treat injuries and take steps to address concerns of pregnancy and/or sexually transmitted infections. Victims of sexual assault, domestic violence, stalking, and dating violence are encouraged to also preserve evidence by saving text messages, instant messages, social networking pages, other communications, and keeping pictures, logs, or other copies of documents, if they have any, that would be useful to University adjudicators/investigators or local police.

Involvement of Law Enforcement and Campus Authorities:

Although the University strongly encourages all members of its community to report violations of this policy to the appropriate law enforcement agency, it is the victim's choice whether or not to make such a report. Furthermore, victims have the right to decline to notify law enforcement. However, the MUPD will assist any victim with notifying law enforcement if the victim so desires. The City of Police Department may also be reached directly by calling (814) 870-1125 during normal business hours, or 911 during off hours or in emergency situations; or in person at the City of Erie Police Department located at 626 State St, Erie PA. Additional information about the City of Erie Police department may be found online at: https://epd.erie.pa.us/

NOTE: In the State of Pennsylvania, employees of institutions of higher learning who suspect incidents of child abuse (including incidents of suspected child sex abuse) must report such incidents to the Department of Public Welfare's Child Line (800-932-0313), the police having jurisdiction, and then to their supervisor. Pennsylvania recognizes matriculated students under the age of 18 as "children" for purposes of this law and, as such, the University is mandated to report a criminal complaint of abuse or sexual abuse involving any student victim under the age of 18 immediately to ChildLine and the police having jurisdiction. Law Enforcement authorities may notify the victim's parents or guardians as stipulated by law.

Reporting Incidents of Domestic Violence, Dating Violence, Sexual Assault, and Stalking:

If you have been the victim of domestic violence, dating violence, sexual assault, or stalking, you should report the incident promptly to the Title IX Coordinator/Sexual and Gender Based Misconduct Coordinator (office: 311 Egan; phone: 814-824-2363) by calling, writing, or coming into the office to report in person. Reports of all domestic violence, dating violence, sexual assault, and stalking made to MUPD will automatically be referred to the Title IX Coordinator for review. The Title IX Coordinator is not a confidential reporting entity and is required to report criminal incidents to MUPD.

Procedures the University Will Follow When a Crime of Domestic Violence, Dating Violence, Sexual Assault, or Stalking is Reported:
The University has procedures in place that serve to be sensitive to victims who report sexual assault, domestic violence, dating violence, and stalking, including informing individuals about their right to file criminal charges; as well as the availability of counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, and other services on- and/or off-campus; as well as additional remedies to prevent contact between a complainant and an accused party, such as housing, academic, transportation and working accommodations, if reasonably available. The University will make such accommodations if the victim requests them and if they are

reasonably available, regardless of whether the victim chooses to report the crime to local law enforcement. Students and employees should contact the Title IX Coordinator/Sexual and Gender Based Misconduct Coordinator (office: 311 Egan; phone: 814-824-2363) by calling, writing, or coming into the office to report in person. The Title IX Coordinator will collaborate and coordinate with the Director Residence Life and Conduct or their designee for student cases and the Director of Human Resources for employee cases.

If a report of domestic violence, dating violence, sexual assault, or stalking is reported to the University, below are the procedures that the University will follow.

Incident Being Reported	Procedures Institution Will Follow
Sexual Assault	1. Depending on when reported (immediate vs delayed report), institution will provide victim with access to medical care 2. Institution will assess immediate safety needs of victim 3. Institution will assist victim with contacting local police if complainant requests AND provide the victim with contact information for local police department 4. Institution will provide victim with referrals to on- and off-campus mental health providers 5. Institution will assess need to implement interim or long-term protective measures, if appropriate 6. Institution will provide the victim with a written explanation of the victim's rights and options 7. Institution will provide a "No trespass" or "No Contact" directive to accused party if deemed appropriate 8. Institution will provide written instructions on how to apply for Protective Order 9. Institution will provide a copy of the policy applicable to Sexual Assault to the victim and inform the victim regarding timeframes for inquiry, investigation, and resolution 10. Institution will inform the victim of the outcome of the investigation, whether or not the accused will be administratively charged, and what the outcome of the hearing is 11. Institution will enforce the non-retaliation policy and take immediate and separate action against parties that retaliate against a person for reporting sex-based discrimination or for assisting in the investigation
Stalking	1. Institution will assess immediate safety needs of victim 2. Institution will assist victim with contacting local police if complainant requests AND provide the victim with contact information for local police department 3. Institution will provide written instructions on how to apply for Protective Order 4. Institution will provide written information to victim on how to preserve evidence 5. Institution will assess need to implement interim or long-term protective measures to protect the victim, if appropriate 6. Institution will provide the victim with a written explanation of the victim's rights and options 7. Institution will provide a "No trespass" or "No Contact" directive to accused party if deemed appropriate
Dating Violence	1. Institution will assess immediate safety needs of victim 2. Institution will assist victim with contacting local police if victim requests AND provide the victim with contact information for local police department 3. Institution will provide written instructions on how to apply for Protective Order 4. Institution will provide written information to victim on how to preserve evidence

	5. Institution will assess need to implement interim or long-term protective measures to protect the victim, if appropriate 6. Institution will provide the victim with a written explanation of the victim's rights and options 7. Institution will provide a "No trespass" or "No Contact" directive to accused party if deemed appropriate
Domestic Violence	1. Institution will assess immediate safety needs of victim 2. Institution will assist victim with contacting local police if victim requests AND provide the victim with contact information for local police department 3. Institution will provide written instructions on how to apply for Protective Order 4. Institution will provide written information to victim on how to preserve evidence 5. Institution will assess need to implement interim or long-term protective measures to protect the victim, if appropriate 6. Institution will provide the victim with a written explanation of the victim's rights and options 7. Institution will provide a "No trespass" or "No Contact" directive to accused party if deemed appropriate

Facilitated Anonymous Reporting through the Counseling Center/Pastoral Counselors:

Certified Counselors assigned to the Counseling Center and practicing pastoral counselors are confidential resources and do not report incidents. In their capacity and function, they do not make identifiable reports of incidents to the official on-campus resources unless the student specifically requests them to do so; however, the University encourages counselors to inform students that they can report incidents of crime to MUPD, which can be done directly or anonymously. Students may request the Counseling Center to facilitate anonymous reporting using an internal form designed to capture general details about the incident (date, time, location, and brief description of the incident type) for inclusion in the University's Annual Security and Fire Safety Report.

The University provides a form on the University HUB, under resources, Title IX-Sexual Respect for anonymous reporting directly to the Title IX Coordinator. The amount of detail provided may enable the University to initiate an investigation into the circumstances surrounding the report. Such an investigation may jeopardize the anonymity of the reporting person or complainant.

Employee Assistance Program:

Mercyhurst University also provides an Employee Assistance Program (EAP) for use by employees. The EAP is available to provide full-time employees assistance with such problems as sexual or physical abuse, depression, marital and relationship conflict, stress, grief, critical incident stress, anxiety, and other personal matters. All full-time employees, regardless of performance, are eligible. The contact number of the EAP is listed in the Resources section of this annual report.

All information relating to an employee's EAP participation is strictly confidential. Only the EAP provider maintains EAP records. The EAP provider does not release specific information about an employee's use of EAP services, unless the employee gives his or her advance written consent. The EAP does not report incidents to any official on campus unless the employee specifically gives them permission to do so.

Assistance for Victims - Rights & Options:

Regardless of whether a victim elects to pursue a criminal complaint or whether the offense is alleged to have occurred on or off campus, the University will assist victims of sexual assault, domestic violence, dating violence, and stalking and will provide each victim with a written explanation of their rights and options.

Such written information will include:

- the procedures victims should follow if a crime of dating violence, domestic violence, sexual assault, or stalking has occurred;
- information about how the institution will protect the confidentiality of victims and other necessary parties;
- a statement that the institution will provide written notification to students and employees about victim services in the institution and in the community;
- a statement regarding the institution's provisions about, options for, available assistance in, and how to request accommodations and protective measures; and
- an explanation of the procedures for institutional disciplinary action

Rights of Victims and the Institution's Responsibilities for Orders of Protection, No-Contact Orders, Restraining Orders, or Similar Lawful Orders Issued by a Criminal, Civil, or Tribal Court or by the Institution:

Mercyhurst University complies with Pennsylvania State law in recognizing orders of protection.

Any person who obtains an order of protection from Pennsylvania or any reciprocal state should provide a copy to MUPD and the Office of the Title IX Coordinator. A complainant may then meet with Title IX Coordinator to develop a Safety Action Plan, which is a plan for Title IX Coordinator and the victim to reduce the risk of harm while on campus or coming and going from campus. This plan may include, but is not limited to: escorts, special parking arrangements, changing classroom/work site location, or working with Academic Advising on alternative class possibilities, allowing a student to complete assignments from home, allowing an employee to develop a flexible work schedule, etc. The University cannot apply for a legal order of protection, No Contact order, or restraining order for a victim from the applicable jurisdiction(s).

In Pennsylvania, a victim of domestic violence, dating violence, sexual assault, or stalking has the right to file a petition with the courts requesting protection through PFAs, SVPOs, and/or PFIs, which could include the following:

- An order restraining the abuser from further acts of abuse;
- An order directing the abuser to leave the victim's household/place of residence;
- An order directing the abuser to refrain from stalking or harassing the victim or other designated persons;
- Other protections based on issues related to cohabitation, residency, employment, and child custody

When an abuser is not a present or past member of the victim's household or family, adults and minors can petition for a Sexual Violence Protection Order (SVPO). For example, a SVPO could be granted for a victim who is sexually assaulted by a coworker and who has no other relationship with the coworker – is not now or never was a family relation, spouse, dating partner, or member of the same household.

Protection from Abuse (PFA):

A protection from abuse order is a paper that is signed by a judge that tells or informs the abuser to stop the abuse or face serious legal consequences. It offers civil legal protection from sexual or relationship violence to both female and male victims. In Pennsylvania, there are a few different types of protection from abuse orders (PFA).
These include:

- Emergency Order – Immediate protection when the courts are closed. A victim can contact the local police by dialing 911, and the police will connect the victim with the on-call magisterial district judge. The judge may grant an emergency order through this emergency process based on the facts of the case.
- Ex Parte Temporary Order – "Ex parte" means the judge will make a decision regarding a PFA, based only on the information provided by the victim, without the abuser being in court.
- Final PFA – A judge can grant a final protection from abuse order after a hearing involving the victim, abuser, witnesses, testimony, and evidence.

Protection of Victims of Sexual Violence or Intimidation (PSVI) Act:

The Protection of Victims of Sexual Violence or Intimidation (PSVI) Act defines sexual violence as conduct between persons who are not family or household members that constitutes one of the following crimes:

- Sexual offenses
- Endangering the welfare of children if the offense involved sexual contact with the victim
- Corruption of minors
- Sexual abuse of children
- Unlawful contact with minor
- Sexual exploitation of children

Sexual Violence Protection Order (SVPO):

An SVPO is a civil order designed to protect victims of sexual violence from further abuse and/or intimidation, regardless of whether or not criminal charges have been filed against the perpetrator. Adults and minors (with a parent or guardian to file on their behalf) can petition for an SVPO. Similar in many ways to a Protection from Abuse order or PFA, the key difference is that there is no relationship requirement between the alleged perpetrator and the victim. (While PFAs require an intimate or household relationship between the two parties, an SVPO does not, and is available to all victims of sexual violence.) Examples of situations where the SVPO may be appropriate relief:

- A victim is sexually assaulted by a co-worker (not related or in a relationship, not household members)
- A student is sexually assaulted by another student
- A tenant is fondled by a landlord
- A college student (an adult) who was sexually assaulted experiences harassment from the perpetrator's friends after reporting the assault

Protection from Intimidation (PFI) Order:

Definition of intimidation under the PSVI Act can be described as harassment or stalking (according to statutes) of a minor (under the age of 18) by an adult (18 or older), when there is no family, dating, intimate, or household relationship between them. The PFI order was created to protect minors who have experienced harassment or stalking when the offender is age 18 or older. An adult (parent or guardian) must petition for the PFI order on the minor's behalf. Examples of situations where the PFI order may be the appropriate relief:

- A child victim whose offender repeatedly drives by the bus stop
- A teen athlete is stalked by an adult coach
- A teen is harassed online by a teacher

Both SVPOs and PFIs prohibit an offender from having any contact with the victim. Protections can include preventing the offender from entering the victim's home, workplace, or school. Both orders can also be expanded to prevent intimidation/contact from a third party on behalf of the offender, or extend to protection to related parties, such as parents, siblings, or children of the victim. The SVPO and PFI orders may be entered for up to 36 months.

MUPD will help put victims who are interested in pursuing a PFA, PSVI, or SVPO in contact with local courts or the local advocacy center of SafeNet. Any student who obtains a protection order from Pennsylvania or any reciprocal State should provide a copy to MUPD and the Office Residence Life. MUPD will help facilitate the reporting of PFA violations to the local law enforcement with jurisdiction.

While not the same as a state-mandated protection order, the University can issue a No Contact Directive. This includes, but is not limited to, communication that is written, verbal, or physical. Written communication is understood to include all electronic means of communication, including, but not limited to: email, instant messaging, and text messaging. Verbal communication is understood to include phone calls and voice mail messages. A No Contact directive may include additional restrictions and terms.

If the University receives a report that such an institutional No Contact directive has been violated, the University will initiate disciplinary proceedings appropriate to the status of the accused (student, employee, etc.) and will impose sanctions if the accused is found responsible for violating the No Contact directive.

Accommodations and Protective Measures Available for Victims:

Upon receipt of a report of domestic violence, dating violence, sexual assault, or stalking, Mercyhurst University will provide written notification to students and employees about accommodations available to them, including academic, living, transportation, and working situations. The written notification will include information regarding the accommodation options, available assistance in requesting accommodations, and how to request accommodations and protective measures (i.e., the notification will include the name and contact information for the individual or office that should be contacted to request the accommodations).

At the victim's request, and to the extent of the victim's cooperation and consent, University offices will work cooperatively to assist the victim in obtaining accommodations. If reasonably available, a victim may be offered changes to academic, living, working, or transportation situations regardless of whether the victim chooses to report the crime to law enforcement.

Examples of options for a potential change to the academic situation may be to transfer to a different section of a class, withdraw and take a class at another time if there is no option for moving to a different section, etc. Potential changes to living situations may include moving to a different room or residence hall. Possible changes to work situations may include changing working hours. Possible changes in transportation may include having the student or employee park in a different location, assisting the student or employee with a safety escort, etc. Issuance of a full, partial, or modified persona non grata (PNG – barring notice) to the respondent may also be appropriate.

To request changes to academic, living, transportation, and/or working situations, or protective measures, a victim should:

> Students: Contact the Title IX Coordinator and/or Director Residence Life and Student Conduct for assistance or their designee.
>
> Employees/Faculty: Contact the Office of Human Resources and/or the Vice President of Academic Affairs (depending upon employment status).

If the victim wishes to receive assistance in requesting these accommodations, the victim should contact the Title IX Coordinator and/or the MUPD.

Confidentiality:

Victims may request that directory information on file with the University be withheld by request. This request can be made to the Registrar's Office in person by visiting Old Main 106 or by calling (814) 824-2250. Employees can contact the Office of Human Resources to make a similar request regarding directory information at (814) 824-2279.

Regardless of whether a victim has opted-out of allowing the University to share "directory information," personally identifiable information (PII) about the victim and other necessary parties will be treated as confidential and only shared with persons who have a specific need-to-know; i.e., those who are investigating/adjudicating the report or those involved in providing support services to the victim, including accommodations and protective measures. By only sharing personally identifiable information with individuals on a need-to-know basis, the institution will maintain as confidential any accommodations or protective measures provided to the victim, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide the accommodations or protective measures.

The University does not publish the name of crime victims or other identifiable information regarding victims in the Daily Crime and Fire Log or in the annual crime statistics that are disclosed in compliance with the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act*. Furthermore, if a Campus Safety Alert

is issued on the basis of a report of domestic violence, dating violence, sexual assault, or stalking, the name of the victim and other personally identifiable information about the victim will be withheld; this could include the specific location where an incident is reported to have occurred when reporting the location could inadvertently identify the victim.

On- and Off-campus Services for Victims:

Upon receipt of a report of domestic violence, dating violence, sexual assault, or stalking, Mercyhurst University will provide written notification to students and employees about existing assistance with and/or information about obtaining resources and services, including counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and assistance in notifying appropriate local law enforcement. If a sexual assault or rape should occur on campus, staff on-scene, including MUPD, will offer the victim a wide variety of services. This information regarding "resources" is not provided to infer that those resources are "crime reporting entities" for Mercyhurst University.

These resources include the following:

	Employees	Students
ON CAMPUS		
Counseling/ Mental Health		Mercyhurst University Counseling Center Phone: 814-824-2431 **Confidential Resource* *(Can make recommendations for local confidential counseling and psychiatric services in the local area)*
Health Services		Mercyhurst University Health Center Phone: 814-824-2431 **Confidential Resource*
Title IX Coordinator	Title IX: 814-824-2363 Human Resources: 814-824-2279	Title IX: 814-824-2363
Visa and Immigration Assistance/ International Student Support and Services		Director of International Student Services Phone: 814-824-3056
Student Financial Aid		Financial Aid Office Phone: 814-824-2288
LGBTQA Advocacy and Education		Multicultural and Inclusion Coordinator Phone: 814-824-2369
Pastoral Counseling		Campus Chaplain Phone: 814-824-2467 **Confidential Resource*
University Police Department	Non-Emergency Phone: 814-824-2304 Emergency Phone: 814-824-3911	Non-Emergency Phone: 814-824-2304 Emergency Phone: 814-824-3911
Vice President for Student Life		Vice President for Student Life Phone: 814-824-2262
Office of Multicultural Engagement		Multicultural and Inclusion Coordinator Phone: 814-824-2369
Sexual Misconduct Resource Site	https://lakersmercyhurst.sharepoint.com/sites/SPO_STU_TitleIX-SexualRespect	https://lakersmercyh.,6567890-urst.sharepoint.com/sites/SPO_STU_TitleIX-SexualRespect
Facilitated Anonymous Reporting	*my.mercyhurst.edu,* log in and click on the "Police and Safety" tab. The silent witness form can be found under the services heading. The form is on the left side of the screen under the *Police and Safety Links*.	A student can go to Health and Counseling or the campus Chaplain to submit an anonymous report. The amount of detail provided in an anonymous report will determine the University's ability to investigate or respond. A student can also go to the Title IX page on the student hub, found under the resources tab and click on "Anonymous Reporting." The amount of detail provided in an anonymous report will determine the University's ability to investigate or respond.
OFF CAMPUS		
Counseling/ Mental Health	Employee Assistance Program (EAP) General Assistance: 888-238-6232 (TTY 711) resourcesforliving.com **Confidential Resource*	
Health Services	UPMC Hamot, 201 State Street – Erie, PA 16550 (814) 877-6000	UPMC Hamot, 201 State Street – Erie, PA 16550 (814) 877-6000 Saint Vincent, 232 W. 25th St – Erie, PA 16544
	Saint Vincent, 232 W. 25th St – Erie, PA 16544 (814) 898-2576	(814) 898-2576

Victim Advocacy	Crime Victim Center, 125 West 18th Street - Erie, PA 16501 (814) 455-9414 or (800) 352-7273 SafeNet, PO Box 1436, Erie, PA 1651 (814) 454-8161 or (814) 455-1774	Crime Victim Center, 125 West 18th Street - Erie, PA 1651 (814) 455-9414 or (800) 352-7273 SafeNet, PO Box 1436, Erie, PA 16512 (814) 454-8161 or (814) 455-1774
Employee Assistance Program	New Opportunities 814-456-0584 1-800-321-7988	
Visa and Immigration Assistance	30 N. 41st Street, Philadelphia, PA 19104 Phone: 800-375-5283	30 N. 41st Street, Philadelphia, PA 19104 Phone: 800-375-5283
Erie Police	Erie County Emergency Center: 911 Nonemergency 814-870-1125	Erie County Emergency Center: 911 Nonemergency 814-870-1125

Other resources available to persons who report being the victim of sexual assault, domestic violence, dating violence, or stalking, include:

http://www.rainn.org – Rape, Abuse and Incest National Network

https://www.justice.gov/ovw/sexual-assault - Department of Justice

http://www2.ed.gov/about/offices/list/ocr/index.html - Department of Education, Office of Civil Rights

Students, Faculty and Employee Grievance Policy for Addressing Formal Complaints of Sexual Harassment Sexual Assault, Domestic Violence, Dating Violence and Stalking Under Title IX Regulations

Non-Discrimination in Application

The requirements and protections of this policy apply equally regardless of sex, sexual orientation, gender identity, gender expression, or other protected classes covered by federal or state law. All requirements and protections are equitably provided to individuals regardless of such status or status as a Complainant, Respondent, or Witness. Individuals who wish to file a complaint about the institution's policy or process may contact the Department of Education's Office for Civil Rights using contact information available at https://ocrcas.ed.gov/contact-ocr.

Definitions

Covered Sexual Harassment

For the purposes of the Title IX Grievance Policy, "covered sexual harassment" includes any conduct on the basis of sex that satisfies one or more of the following:

1. An employee conditioning educational benefits on participation in unwelcome sexual conduct (i.e., quid pro quo);
2. Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively

offensive
that it effectively denies a person equal access to the educational institution's education program or activity;

3. Sexual assault (as defined in the Clery Act), which includes any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent;
4. Dating violence (as defined in the Violence Against Women Act (VAWA) amendments to the Clery Act), which includes any violence committed by a person:
    a. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
    b. where the existence of such a relationship shall be determined based on a consideration of the following factors:
        i. The length of the relationship;
        ii. The type of relationship;
        iii. The frequency of interaction between the persons involved in the relationship.
5. Domestic violence (as defined in the VAWA amendments to the Clery Act), which includes any felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under Pennsylvania domestic or family violence laws or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Pennsylvania.
6. Stalking (as defined in the VAWA amendments to the Clery Act), meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to—
    a. fear for their safety or the safety of others; or
    b. suffer substantial emotional distress.

Note that conduct that does not meet one or more of these criteria may still be prohibited under the Sexual and Gender Based Misconduct Policy.

Consent

For the purposes of the Title IX Grievance Policy, consent is an informed decision made freely and actively through words or actions that demonstrates an affirmative, knowing, and voluntary agreement to engage in a sexual act. The need to obtain consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

Because sexual misconduct is defined as sexual activity that is undertaken without consent, each participant must obtain and give consent to each sexual act. Students are strongly encouraged to talk with each other before and during any sexual interaction. Relying solely on non-verbal communication can lead to miscommunication. Students are strongly advised to avoid any ambiguity in obtaining and giving consent.

Although all parties must give their consent to any sexual act and it is the best practice for both partners to be responsible for confirming that they have obtained the other's consent, it is the responsibility of the person initiating the sexual act to obtain consent from the other.

Education Program or Activity

For the purposes of the Title IX Grievance Policy, Mercyhurst's "education program or activity" includes:

- Any on-campus premises
- Any off-campus premises that Mercyhurst has substantial control over. This includes buildings or property owned or controlled by a recognized student organization.
- Activity occurring within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of Mercyhurst's programs and activities over which Mercyhurst has substantial control.

Formal Complaint

For the purposes of the Title IX Grievance Policy, "formal complaint" means a document – including an electronic submission - filed by a complainant with a signature or other indication that the complainant is the person filing the formal complaint, or signed by the Title IX Coordinator, alleging sexual harassment against a respondent about conduct within Mercyhurst's education program or activity and requesting initiation of the procedures consistent with the Title IX Grievance Policy to investigate the allegation of sexual harassment.

Complainant

For the purposes of the Title IX Grievance Policy, Complainant means any individual who has reported being or is alleged to be the victim of conduct that could constitute covered sexual harassment as defined under this policy.

Relevant evidence and questions

"Relevant" evidence and questions refer to any questions and evidence that tends to make an allegation of sexual harassment more or less likely to be true.

"Relevant" evidence and questions do not include the following types of evidence and questions, which are deemed "irrelevant" at all stages of the Title IX Grievance Process:

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

Respondent

For the purposes of the Title IX Grievance policy, Respondent means any individual who has been reported to be the perpetrator of conduct that could constitute covered sexual harassment as defined under this policy.

Privacy vs. Confidentiality

Consistent with the Mercyhurst Code of Conduct, references made to *confidentiality* refer to the ability of identified confidential resources to not report crimes and violations to law enforcement or university officials without permission, except for extreme circumstances, such as a health and/or safety emergency or child abuse. References made to *privacy* mean Mercyhurst offices and employees who cannot guarantee confidentiality but will maintain privacy to the greatest extent possible, and information disclosed will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible for tracking patterns and spotting systemic issues. Mercyhurst will limit the disclosure as much as practicable, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored.

Disability Accommodations

This Policy does not alter any institutional obligations under federal disability laws including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator at any point before or during the Title IX Grievance Process that do not fundamentally alter the Process. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the parties, even where the parties may be receiving accommodations in other institutional programs and activities.

Making a Report Regarding Covered Sexual Harassment to the Institution

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

Contact Information for the Title IX Coordinator:
Title IX Coordinator/Sexual and Gender Based Misconduct Coordinator (311 Egan Hall, 814-824-2363).

Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address listed for the Title IX Coordinator.

Confidential Reporting

The following Officials will provide privacy, but not confidentiality, upon receiving a report of conduct prohibited under this policy:

- Title IX Coordinator or designee
- Mercyhurst University Police & Safety Department

The following Officials may provide confidentiality:

- Mercyhurst University Health and Counseling Staff
- Mercyhurst clergy

Non-Investigatory Measures Available Under the Title IX Grievance Policy

Supportive Measures

Complainants (as defined above), who report allegations that could constitute covered sexual harassment under this policy, have the right to receive supportive measures from Mercyhurst regardless of whether they desire to file a complaint, which may include the following, as appropriate. Supportive measures are non-disciplinary and non-punitive:

- *counseling*
- *extensions of deadlines or other course-related adjustments*
- *modifications of work or class schedules*
- *campus escort services*
- *restrictions on contact between the parties (no contact orders)*
- *changes in work or housing locations*
- *leaves of absence*
- *increased security and monitoring of certain areas of the campus*

Emergency Removal

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

If Mercyhurst determines such removal is necessary, the respondent will be provided notice and an opportunity to appeal the decision immediately following the removal. The emergency removal committee consists of the Title IX Coordinator, member of Police & Safety, member of the Cohen Health Center, or designees. The committee will review all relevant documentation and known facts to determine safety risk or immediate threat. The emergency removal will be effective immediately. A respondent can file an appeal that will be heard within two (2) business days by a designated Vice President.

Administrative Leave

Mercyhurst retains the authority to place a non-student employee respondent on administrative leave during the Title IX Grievance Process, consistent with the Mercyhurst Employee Handbook.

The Title IX Grievance Process

Filing a Formal Complaint

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

To file a Formal Complaint, a complainant must provide the Title IX Coordinator a written, signed complaint describing the facts alleged. Complainants are only able to file a Formal Complaint under this Policy if they are currently participating in, or attempting to participate in, the education programs or activities of Mercyhurst, including as an employee. For complainants who do not meet these criteria, the University will utilize the existing Sexual and Gender Based Misconduct Policy in the student handbook. https://www.mercyhurst.edu/handbook

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

Nothing in the Title IX Grievance Policy or Sexual and Gender Based Misconduct Policy prevents a complainant from seeking the assistance of state or local law enforcement alongside the appropriate on-campus process.

Multi-Party Situations

The institution may consolidate Formal Complaints alleging covered sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of covered sexual harassment arise out of the same facts or circumstances.

Determining Jurisdiction

The Title IX Coordinator, or designee, will determine if the Title IX Grievance Process should apply to a Formal Complaint. The process will apply when all the following elements are met, in the reasonable determination of the Title IX Coordinator:

1. The conduct is alleged to have occurred on or after August 14, 2020;
2. The conduct is alleged to have occurred in the United States;
3. The conduct is alleged to have occurred in Mercyhurst's education program or activity; and
4. The alleged conduct, if true, would constitute covered sexual harassment as defined in this policy.

If all the elements are met, Mercyhurst will investigate the allegations according to the Grievance Process.

Allegations Potentially Falling Under Two Policies:

If the alleged conduct, if true, includes conduct that would constitute covered sexual harassment and conduct that would not constitute covered sexual harassment, the Title IX Grievance Process will be applied in the investigation and adjudication of all the allegations.

Mandatory Dismissal

If any one of these elements are not met, the Title IX Coordinator, or designee, will notify the parties that the Formal Complaint is being dismissed for the purposes of the Title IX Grievance Policy. Each party may appeal this dismissal using the procedure outlined in "Appeals" below.

Discretionary Dismissal

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

1. A complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint, or any allegations raised in the Formal Complaint;
2. The respondent is no longer enrolled or employed by Mercyhurst; or,
3. If specific circumstances prevent Mercyhurst from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations within the Formal Complaint.

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

Notice of Dismissal

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

Notice of Removal

Upon dismissal for the purposes of Title IX, Mercyhurst retains discretion to utilize the Sexual and Gender Based Misconduct Policy in the student handbook. https://www.mercyhurst.edu/handbook to determine if a violation of Sexual and Gender Based Misconduct Policy has occurred. If so, Mercyhurst will promptly send written notice of the dismissal of the Formal Complaint under the Title IX Grievance Process and removal to the conduct process.

Notice of Allegations

The Title IX Coordinator will draft and provide the Notice of Allegations to any party of the allegations of sexual harassment. Such notice will occur as soon as practicable, after the institution receives a Formal Complaint of the allegations, if there are no extenuating circumstances.

The parties will be notified by their institutional email accounts if they are a student or employee, and by other reasonable means if they are neither.

The institution will provide sufficient time for the parties to review the Notice of Allegations and prepare a response before any initial interview.

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

Contents of Notice

The Notice of Allegations will include the following:

- Notice of the institution's Title IX Grievance Process and a hyperlink to a copy of the process.
- Notice of the allegations potentially constituting covered sexual harassment, and sufficient details known at the time the Notice is issued, such as the identities of the parties involved in the incident, if known, including the complainant; the conduct allegedly constituting covered sexual harassment; and the date and location of the alleged incident, if known.
- A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.
- A statement that the parties may have an advisor of their choice, who may be, but is not required to be, an attorney.
- A statement that before the conclusion of the investigation, the parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the institution does not intend to rely in reaching a determination regarding responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a party or other source, as required under.

Ongoing Notice

If, in the course of an investigation, the institution decides to investigate allegations about the complainant or respondent that are not included in the Notice of Allegations and are otherwise covered "sexual harassment" falling within the Title IX Grievance Policy, the institution will notify the parties whose identities are known of the additional allegations by their institutional email accounts or other reasonable means.

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

Advisor of Choice and Participation of Advisor of Choice

Mercyhurst will provide the parties equal access to advisors and support persons; any restrictions on advisor participation will be applied equally.

Mercyhurst has a long-standing practice of requiring students to participate in the process directly and not through an advocate or representative. Students participating as Complainant or Respondent in this process may be accompanied by an Advisor of Choice to any meeting or hearing to which they are required or are eligible to attend. The Advisor of Choice is not an advocate. Except where explicitly stated by this Policy, as consistent with the Final Rule, Advisors of Choice shall not participate directly in the process as per standard policy and practice of Mercyhurst.

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

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

Notice of Meetings and Interviews

Mercyhurst will provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with a party, with sufficient time for the party to prepare to participate.

Delays

Each party may request a one-time delay in the Grievance Process of up to five (5) days for good cause (granted or denied in the sole judgment of the Title IX Coordinator, Director of Student Conduct, or designee) provided that the requestor provides reasonable notice, and the delay does not overly inconvenience other parties.

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

The Title IX Coordinator, Director of Student Conduct, or designee shall have sole judgment to grant further pauses in the Process.

Investigation

General Rules of Investigations

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

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

Mercyhurst cannot access, consider, or disclose medical records without a waiver from the party (or parent, if applicable) to whom the records belong or of whom the records include information. Mercyhurst will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence, (i.e. evidence that tends to prove and disprove the allegations) as described below.

Inspection and Review of Evidence

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

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

1. Evidence that is relevant, even if that evidence does not end up being relied upon by the institution in determining responsibility;
2. Inculpatory or exculpatory evidence (i.e. evidence that tends to prove or disprove the allegations) that is directly related to the allegations, whether obtained from a party or other source.

All parties must submit any evidence they would like the investigator to consider prior to when the parties' time to inspect and review evidence begins.

The institution will send the evidence made available for each party and each party's advisor, if any, to inspect and review. The institution is not under an obligation to use any specific process or technology to provide the evidence and shall have the sole discretion in terms of determining format and any restrictions or limitations on access.

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

The institution will provide copies of the parties' written responses to the investigator to all parties and their advisors, if any.

The institution may provide the parties five (5) business days after the initial inspection and review of evidence, and before the investigator completes their Investigative Report, to provide additional evidence in response to their inspection and review of the evidence, and then provide the parties five (5) business days to inspect, review, and respond to the party's additional evidence through a written response to the investigator. Those written responses will be disclosed to the parties.

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

The parties and their advisors agree not to disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the Title IX grievance process.

Inclusion of Evidence Not Directly Related to the Allegations:

Evidence obtained in the investigation that is determined in the reasoned judgment of the investigator not to be directly related to the allegations in the Formal Complaint will be included in the appendices to the investigative report.

Investigative Report

The Title IX Coordinator and/or an investigator designated by the Title IX Coordinator will create an Investigative Report that fairly summarizes relevant evidence, will and provide that Report to the parties at least ten (10) business days prior the hearing for each party's review and written response.

The Investigative Report is not intended to catalog all evidence obtained by the investigator, but only to provide a fair summary of that evidence.

Only relevant evidence (including both inculpatory and exculpatory – i.e. tending to prove and disprove the allegations - relevant evidence) will be referenced in the Investigative Report.

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

Hearing

General Rules of Hearings

Mercyhurst will not issue a disciplinary sanction arising from an allegation of covered sexual harassment without holding a live hearing unless otherwise resolved through an informal resolution process.

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

All proceedings will be recorded through audio and/or video recording. That recording will be made available to the parties for inspection and review.

Prior to obtaining access to any evidence, the parties and their advisors must agree not to disseminate any of the testimony heard or evidence obtained in the hearing or use such testimony or evidence for any purpose unrelated to the Title IX Grievance Process.

Continuances or Granting Extensions

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

Newly-discovered Evidence

As a general rule, no new evidence or witnesses may be submitted during the live hearing.

If a party identifies new evidence or witnesses that were not reasonably available prior to the live hearing and could affect the outcome of the matter, the party may request that such evidence or witnesses be considered at the live hearing.

The Hearing Board Chair will consider this request and make a determination regarding (1) whether such evidence or witness testimony was actually unavailable by reasonable effort prior to the hearing, and (2) whether such evidence or witness testimony could affect the outcome of the matter. The party offering the newly discovered evidence or witness has the burden of establishing these questions by the preponderance of the evidence.

If the Hearing Board Chair answers in the affirmative to both questions, then the parties will be granted a reasonable pause in the hearing to review the evidence or prepare for questioning of the witness.

Participants in the live hearing

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

Complainant and Respondent (The Parties)

- The parties cannot waive the right to a live hearing.
- The institution may still proceed with the live hearing in the absence of a party and may reach a determination of responsibility in their absence, including through any evidence gathered that does not constitute a "statement" by that party.
    - For example, a verbal or written statement constituting part or all of the sexual harassment itself is not a "prior statement" that must be excluded if the maker of the statement does not submit to cross- examination about that statement.
- Mercyhurst will not threaten, coerce, intimidate, or discriminate against the party in an attempt to secure the party's participation.
- The decision-maker cannot draw an inference about the determination regarding responsibility based solely on a party's absence from the live hearing or refusal to answer cross examination or other questions.
- The parties shall be subject to the institution's Rules of Decorum.

The Decision-maker

- The hearing body will consist of a three-person panel of decision-makers.
- No member of the hearing body will also have served as the Title IX Coordinator, Title IX investigator, or advisor to any party in the case, nor may any member of the hearing body serve on the appeals body in the case.
- No member of the hearing body will have a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.
- The hearing body will be trained on topics including how to serve impartially, issues of relevance, including how to apply the rape shield protections provided for complainants, and any technology to be used at the hearing.

- The parties will have an opportunity to raise any objections regarding a decision-maker's actual or perceived conflicts of interest or bias at the commencement of the live hearing.

Advisor of choice

- The parties have the right to select an advisor of their choice, who may be, but does not have to be, an attorney.
- The advisor of choice may accompany the parties to any meeting or hearing they are permitted to attend, but may not speak for the party, except for the purpose of cross-examination.
- The parties are not permitted to conduct cross-examination; it must be conducted by the advisor. As a result, if a party does not select an advisor, the institution will select an advisor to serve in this role for the limited purpose of conducting the cross-examination at no fee or charge to the party.
- The advisor is not prohibited from having a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.
- The advisor is not prohibited from being a witness in the matter.
- If a party does not attend the live hearing, the party's advisor may appear and conduct cross-examination on their behalf.
- If neither a party nor their advisor appear at the hearing, Mercyhurst will provide an advisor to appear on behalf of the non-appearing party.
- Advisors shall be subject to the institution's Rules of Decorum and may be removed upon violation of those Rules.

Witnesses

- Witnesses cannot be compelled to participate in the live hearing and have the right not to participate in the hearing free from retaliation.
- Witnesses shall be subject to the institution's Rules of Decorum.

Hearing Procedures

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

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

Live Cross-Examination Procedure

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

Before any cross-examination question is answered, Hearing Board Chair will determine if the question is relevant. Cross-examination questions that are duplicative of those already asked, including by Hearing Board may be deemed irrelevant if they have been asked and answered.

Review of Recording

The recording of the hearing will be available for review by the parties within five (5) business days, unless there are any extenuating circumstances. The recording of the hearing will not be provided to parties or advisors of choice.

Determination Regarding Responsibility-Standard of Proof

Mercyhurst uses the preponderance of the evidence standard for investigations and determinations regarding responsibility of formal complaints covered under this Policy. This means that the investigation and hearing determine whether it is more likely than not that a violation of the Policy occurred.

General Considerations for Evaluating Testimony and Evidence

While the opportunity for cross-examination is required in all Title IX hearings, determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the Decision-maker.

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

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

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

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

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

The Final Rule requires that Mercyhurst allow parties to call "expert witnesses" for direct and cross examination. Mercyhurst does not provide for expert witnesses in other proceedings. While the expert witness will be allowed to testify and be cross examined as required by the Final Rule, the decision-maker will be instructed to afford lower weight to non-factual testimony of the expert relative to fact witnesses, and any expert testimony that is not directed to the specific facts that occurred in the case will be afforded lower weight relative to fact witnesses,

regardless of whether the expert witness testimony is the subject of cross examination and regardless of whether all parties present experts as witnesses.

The Final Rule requires that Mercyhurst allow parties to call character witnesses to testify. Mercyhurst does not provide for character witnesses in other proceedings. While the character witnesses will be allowed to testify and be cross examined as required by the Final Rule, the decision-maker will be instructed to afford very low weight to any non-factual character testimony of any witness.

The Final Rule requires that Mercyhurst admit and allow testimony regarding polygraph tests ("lie detector tests") and other procedures that are outside of standard use in academic and non-academic conduct processes. While the processes and testimony about them will be allowed to testify and be crossed as required by the Final Rule, the decision-maker will be instructed to afford lower weight to such processes relative to the testimony of fact witnesses.

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

Components of the Determination Regarding Responsibility

The written Determination Regarding Responsibility will be issued simultaneously to all parties through their institutional email account, or other reasonable means as necessary. The Determination will include:

1. Identification of the allegations potentially constituting covered sexual harassment;
2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. Findings of fact supporting the determination;
4. Conclusions regarding which section(s) of the Code of Conduct, if any, the respondent has or has not violated.
5. For each allegation:
    - A statement of, and rationale for, a determination regarding responsibility;
    - A statement of, and rationale for, any disciplinary sanctions the institution imposes on the respondent; and
    - A statement of, and rationale for, whether remedies designed to restore or preserve equal access to the university's education program or activity will be provided by the recipient to the complainant; and
6. The university's procedures and the permitted reasons for the complainant and respondent to appeal (described below in "Appeal").

Timeline of Determination Regarding Responsibility

If there are no extenuating circumstances, the determination regarding responsibility will be issued by Mercyhurst within (10) business days of the completion of the hearing.

Finality

The determination regarding responsibility becomes final either (1) if an appeal is not filed, the date on which the opportunity to appeal expires, or (2) if an appeal is filed consistent with the procedures and timeline outlined in

"Appeals" below, the date that the institution provides the parties with the written determination of the result of the appeal.

Appeals

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

The limited grounds for appeal available are as follows:

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

The submission of appeal stays any sanctions for the pendency of an appeal. Supportive measures and remote learning opportunities remain available during the pendency of the appeal.

If a party appeals, the institution will as soon as practicable notify the other party in writing of the appeal; however, the time for appeal shall be offered equitably to all parties and shall not be extended for any party solely because the other party filed an appeal.

Appeals should not exceed 1500 words. Appeals that do not meet this standard may be returned to the party for correction, but the time for appeal will not be extended unless there is evidence that technical malfunction caused the appeal document not to meet these standards.

Appeals will be decided by Title IX Appeals Officer who will be free of conflict of interest and bias, and will not serve as investigator, Title IX Coordinator, or hearing decision maker in the same matter.

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

Retaliation

Mercyhurst will keep the identity of any individual who has made a report or complaint of sex discrimination confidential, including the identity of any individual who has made a report or filed a Formal Complaint of sexual harassment under this Title IX Grievance Policy, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any witness, except as permitted by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding under this Title IX Grievance Policy.

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX of the Education Amendments of 1972 or its implementing regulations.

No person may intimidate, threaten, coerce, or discriminate against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under this Title IX Grievance Policy.

Any intimidation, threats, coercion, or discrimination, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations, constitutes retaliation. This includes any charges filed against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but that arise from the same facts or circumstances as a report or complaint of sex discrimination or a report or Formal Complaint of sexual harassment.

Complaints alleging retaliation may be filed according to the Mercyhurst Grievance policy.

Good Samaritan Statement: Mercyhurst University views student safety as paramount. Student health and safety are the primary concerns of the Mercyhurst community. Students are expected to contact Police & Safety or the AD on duty when they believe that assistance for an intoxicated/impaired student is needed. Students and/or organizations that seek assistance from these sources, the individual assisted, and others involved may have applicable alcohol sanctions waived. In incidents of crisis or medical emergency, Mercyhurst students are expected to care for themselves and for others in the University community by getting help from appropriate officials even when violations of the Conduct Code have occurred. In crisis situations involving alcohol, drugs and/or sexual misconduct, the University strongly considers the positive impact of taking responsible action when determining the appropriate response for alleged policy violations relating to the incident. The granting of any form of amnesty remains a matter of discretion with the adjudicator. This policy does not preclude taking disciplinary action for violations associated with vandalism, theft, hazing, physical assault, sexual assault, or other policy violations. Amnesty under this policy is a matter of compassion, not a right. It is not to be abused by those who violate the Conduct Code repeatedly.

Student Sexual and Gender Based Misconduct Policy for Addressing Formal Complaints of Sexual Harassment Sexual Assault, Domestic Violence, Dating Violence and Stalking

How does this Policy impact other campus disciplinary policies such as Title IX?

In recent years, “Title IX” cases have become a short-hand for any campus disciplinary process involving sex discrimination, including those arising from sexual harassment and sexual assault. But under the Final Rule, Mercyhurst must narrow both the geographic scope of its authority to act under Title IX and the types of “sexual harassment” that it must subject to its Title IX investigation and adjudication process. ***Only*** incidents falling within the Final Rule’s definition of sexual harassment will be investigated and, if appropriate, brought to a live hearing through the Title IX Grievance Policy.

Mercyhurst remains committed to addressing any violations of its policies, even those not meeting the narrow standards defined under the Title IX Final Rule.

Specifically, our campus has a Code of Conduct that defines certain behavior as a violation of campus policy, and a separate Sexual and Gender Based Misconduct Policy that addresses the types of sex-based offenses constituting a violation of campus policy, and the procedures for investigating and adjudicating those sex-based offenses.

To the extent that alleged misconduct falls outside the Title IX Grievance Policy, or misconduct falling outside the Title IX Grievance Policy is discovered in the course of investigating covered Title IX misconduct, the institution

retains authority to investigate and adjudicate the allegations under the policies and procedures defined within Sexual and Gender Based Misconduct Policy through a separate grievance proceeding.

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

Non-Discrimination in Application

The requirements and protections of this policy apply equally regardless of sex, sexual orientation, gender identity, gender expression, or other protected classes covered by federal or state law. All requirements and protections are equitably provided to individuals regardless of such status or status as a Complainant, Respondent, or Witness. Individuals who wish to file a complaint about the institution's policy or process may contact the Department of Education's Office for Civil Rights using contact information available on the OCR website.

Determining Jurisdiction

The Sexual and Gender Based Misconduct Coordinator, or designee, will determine if the Sexual and Gender Based Misconduct Policy should apply to a Formal Complaint. The Process will apply when all of the following elements are met, in the reasonable determination of the Coordinator or designee:

1. The conduct is alleged to have occurred on or after August 14, 2020;
2. The alleged conduct, if true, would constitute sexual harassment by a student as defined in this policy.
3. If all of the elements are met, Mercyhurst will investigate the allegations according to the Grievance Process defined herein.

Definitions

Sexual Harassment

For the purposes of this Sexual and Gender Based Misconduct Policy, sexual harassment includes any conduct on the basis of sex that satisfies one or more of the following:

1. Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that if effectively denies a person equal access to the educational institution's education program or activity;
2. Sexual assault (as defined in the Clery Act), which includes any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent;
3. Dating violence (as defined in the Violence Against Women Act (VAWA) amendments to the Clery Act), which includes any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; (iii) The frequency of interaction between the persons involved in the relationship.
4. Domestic violence (as defined in the VAWA amendments to the Clery Act), which includes any felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a

spouse of the victim under Pennsylvania domestic or family violence laws or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Pennsylvania.

5. Stalking (as defined in the VAWA amendments to the Clery Act), meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to-- (A) fear for their safety or the safety of others; or
   (B) suffer substantial emotional distress.

Consent

For the purposes of this Sexual and Gender Based Misconduct Policy, consent is an informed decision made freely and actively through words or actions that demonstrates an affirmative, knowing, and voluntary agreement to engage in a sexual act. The need to obtain consent does not vary based upon a participant's sex, sexual orientation, gender identity, or gender expression.

Because sexual misconduct is defined as sexual activity that is undertaken without consent, each participant must obtain and give consent to each sexual act. Students are strongly encouraged to talk with each other before and during any sexual interaction. Relying solely on non-verbal communication can lead to miscommunication. Students are strongly advised to avoid any ambiguity in obtaining and giving consent.

Although all parties must give their consent to any sexual act and it is the best practice for both partners to be responsible for confirming that they have obtained the other's consent, it is the responsibility of the person initiating the sexual act to obtain consent from the other.

Formal Complaint

For the purposes of this Sexual and Gender Based Misconduct Policy, "formal complaint" means a document – including an electronic submission - filed by a complainant with a signature or other indication that the complainant is the person filing the formal complaint, or signed by the Sexual and Gender Based Misconduct Coordinator, alleging sexual harassment against a respondent about conduct by a Mercyhurst student and requesting initiation of the procedures consistent with the Sexual and Gender Based Misconduct Policy to investigate the allegation of sexual harassment.

Complainant

For the purposes of this Sexual and Gender Based Misconduct Policy, "Complainant" means any individual who has reported being or is alleged to be the victim of conduct that could constitute sexual harassment as defined under this policy.

Relevant evidence and questions

"Relevant" evidence and questions refer to any questions and evidence that tends to make an allegation of sexual harassment more or less likely to be true.

"Relevant" evidence and questions do not include the following types of evidence and questions, which are deemed "irrelevant" at all stages of the Sexual and Gender Based Misconduct Process:

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

Respondent

For the purposes of this Sexual and Gender Based Misconduct Policy, "Respondent" means any individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment as defined under this policy.

Privacy vs. Confidentiality

Consistent with Mercyhurst Code of Conduct, references made to *confidentiality* refer to the ability of identified confidential resources to not report crimes and violations to law enforcement or University officials without permission, except for extreme circumstances, such as a health and/or safety emergency or child abuse. References made to *privacy* mean Mercyhurst offices and employees who cannot guarantee confidentiality but will maintain privacy to the greatest extent possible, and information disclosed will be relayed only as necessary to investigate and/or seek a resolution and to notify the Sexual and Gender Based Misconduct Coordinator or designee, who is responsible for tracking patterns and spotting systemic issues. Mercyhurst will limit the disclosure as much as practicable, even if the Sexual and Gender Based Misconduct Coordinator determines that the request for confidentiality cannot be honored.

Disability Accommodations

This Policy does not alter any institutional obligations under federal disability laws including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for disclosed disabilities to the Sexual and Gender Based Misconduct Coordinator at any point before or during the Sexual and Gender Based Misconduct Process that do not fundamentally alter the Process. The Sexual and Gender Based Misconduct Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities.

Making a Report Regarding Sexual Harassment to the Institution

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Sexual and Gender Based Misconduct Coordinator, or by any other means that results in the Sexual and Gender Based Misconduct Coordinator receiving the person's verbal or written report.

Contact Information for the Sexual and Gender Based Misconduct Coordinator:
Title IX Coordinator/ Sexual and Gender Based Misconduct Coordinator (311 Egan Hall, 814-824-2363).

Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address listed for the Sexual and Gender Based Misconduct Coordinator.

Confidential Reporting

The following Officials will provide privacy, but not confidentiality, upon receiving a report of conduct prohibited under this policy:

- Sexual and Gender Based Misconduct Coordinator or designee
- Mercyhurst University Police & Safety Department

The following Officials may provide confidentiality:

- Mercyhurst University Health and Counseling Staff
- Mercyhurst clergy

Non-Investigatory Measures Available Under the Sexual and Gender Based Misconduct Policy
Complainants who report allegations that could constitute sexual harassment under this policy, have the right to receive supportive measures from Mercyhurst regardless of whether they desire to file a complaint, which may include the following, as appropriate. Supportive measures are non-disciplinary and non-punitive.

- *counseling*
- *extensions of deadlines or other course-related adjustments*
- *modifications of work or class schedules*
- *restrictions on contact between the parties (no contact orders)*
- *changes in work or housing locations*
- *increased security and monitoring of certain areas of the campus*

Emergency Removal

Mercyhurst retains the authority to remove a respondent from Mercyhurst's program or activity on an emergency basis, where Mercyhurst (1) undertakes an individualized safety and risk analysis and (2) determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies a removal.

If Mercyhurst determines such removal is necessary, the respondent will be provided notice and an opportunity to challenge the decision immediately following the removal. The emergency removal committee consists of the Sexual and Gender Based Misconduct Coordinator, member of Police & Safety, member of the Cohen Health Center, or designees. The committee will review all relevant documentation and known facts to determine safety risk or immediate threat. The emergency removal will be effective immediately. A respondent can file an appeal that will be heard within two (2) business days by a designated Vice President.

Sexual and Gender Based Misconduct Process Filing a Formal Complaint

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

To file a Formal Complaint, a complainant must provide the Sexual and Gender Based Misconduct Coordinator a written, signed complaint describing the facts alleged. If a complainant does not wish to make a Formal Complaint, the Sexual and Gender Based Misconduct Coordinator may determine a Formal Complaint is necessary. Mercyhurst will inform the complainant of this decision in writing, and the complainant need not participate in the process further but will receive all notices issued under this Policy and Process.

Nothing in the Sexual and Gender Based Misconduct Policy or other University policies prevents a complainant from seeking the assistance of state or local law enforcement alongside the appropriate on-campus process.

Informal Resolution

A complainant who files a Formal Complaint may elect, at any time, to address the matter through Mercyhurst's Informal Resolution Process. All Parties to a Formal Complaint must agree to enter the Informal Resolution Process through an informed written consent.

Multi-Party Situations

Mercyhurst may consolidate Formal Complaints alleging sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

Allegations Potentially Falling Under Two Policies:

If the alleged conduct, if true, includes conduct that would constitute covered sexual harassment and conduct that would not constitute covered sexual harassment, the Sexual and Gender Based Misconduct process will be applied in the investigation and adjudication of all the allegations.

Discretionary Dismissal

The Sexual and Gender Based Misconduct Coordinator, or designee, may dismiss a Formal Complaint brought under the Sexual and Gender Based Misconduct Policy, or any specific allegations raised within that Formal Complaint, at any time during the investigation or hearing, if:

- A complainant notifies the Sexual and Gender Based Misconduct Coordinator in writing that they would like to withdraw the Formal Complaint or any allegations raised in the Formal Complaint;
- The respondent is no longer enrolled; or,
- If specific circumstances prevent Mercyhurst from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations within the Formal Complaint.

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

Notice of Dismissal

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

Notice of Allegations

The Sexual and Gender Based Misconduct Coordinator will draft and provide the Notice of Allegations to any party to the allegations of sexual harassment. Such notice will occur as soon as practicable, after the institution receives a Formal Complaint of the allegations, if there are no extenuating circumstances.

The parties will be notified by their institutional email accounts or other reasonable means.

The institution will provide sufficient time for the parties to review the Notice of Allegations and prepare a response before any initial interview.

Contents of Notice

The Notice of Allegations will include the following:

- Notice of the institution's Sexual and Gender Based Misconduct Process and a hyperlink to a copy of the process.
- Notice of the allegations potentially constituting sexual harassment, and sufficient details known at the time the Notice is issued, such as the identities of the parties involved in the incident, if known, including the complainant; the conduct allegedly constituting sexual harassment; and the date and location of the alleged incident, if known.
- A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.

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

Ongoing Notice

If, in the course of an investigation, the institution decides to investigate allegations about the complainant or respondent that are not included in the Notice of Allegations and are otherwise "sexual harassment" falling within the Sexual and Gender Based Misconduct Policy, the institution will notify the parties whose identities are known of the additional allegations by their institutional email accounts or other reasonable means.

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

Advisor of Choice and Participation of Advisor of Choice

Mercyhurst will provide the parties equal access to advisors and support persons; any restrictions on advisor participation will be applied equally.

Mercyhurst has a long-standing practice of requiring students to participate in the process directly and not through an advocate or representative. Students participating as Complainant or Respondent in this process may be accompanied by an Advisor of Choice to any meeting or hearing to which they are required or are eligible to attend. The Advisor of Choice is not an advocate. Except where explicitly stated by this Policy, Advisors of Choice shall not participate directly in the process.

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

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

Notice of Meetings and Interviews

Mercyhurst will provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with a party, with sufficient time for the party to prepare to participate.

Delays

Each party may request a one-time delay in the Sexual and Gender Based Misconduct Process of up to five (5) days for good cause (granted or denied in the sole judgment of the Sexual and Gender Based Misconduct Coordinator, Director of Student Conduct, or designee) provided that the requestor provides reasonable notice and the delay does not overly inconvenience other parties.

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

The Sexual and Gender Based Misconduct Coordinator, Director of Student Conduct, or designee shall have sole judgment to grant further pauses in the Process.

Investigation

General Rules of Investigations

The Sexual and Gender Based Misconduct Coordinator and/or an investigator designated by the Sexual and Gender Based Misconduct Coordinator will perform an investigation under a reasonably prompt timeframe of the conduct alleged to constitute sexual harassment after issuing the Notice of Allegations.

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

Mercyhurst cannot access, consider, or disclose medical records without a waiver from the party (or parent, if applicable) to whom the records belong or of whom the records include information. Mercyhurst will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence, (i.e. evidence that tends to prove and disprove the allegations) as described below.

Inspection and Review of Evidence

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

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

- Evidence that is relevant, even if that evidence does not end up being relied upon by the institution in making a determination regarding responsibility;
- inculpatory or exculpatory evidence (i.e. evidence that tends to prove or disprove the allegations) that is directly related to the allegations, whether obtained from a party or other source.

All parties must submit any evidence they would like the investigator to consider prior to when the parties' time to inspect and review evidence begins.

The institution will send the evidence made available for each party and each party's advisor, if any, to inspect and review. The Institution is not under an obligation to use any specific process or technology to provide the

evidence and shall have the sole discretion in terms of determining format and any restrictions or limitations on access.

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

The institution will provide copies of the parties' written responses to the investigator to all parties and their advisors, if any.

The institution may provide the parties five (5) business days after the initial inspection and review of evidence, and before the investigator completes their Investigative Report, to provide additional evidence in response to their inspection and review of the evidence, and then provide the parties five (5) business days to inspect, review, and respond to the party's additional evidence through a written response to the investigator. Those written responses will be disclosed to the parties.

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

The parties and their advisors agree not to disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the grievance process.

Inclusion of Evidence Not Directly Related to the Allegations:

Evidence obtained in the investigation that is determined in the reasoned judgment of the investigator not to be directly related to the allegations in the Formal Complaint will be included in the appendices to the investigative report.

Investigative Report

The Sexual and Gender Based Misconduct Coordinator and/or an investigator designated by the Sexual and Gender Based Misconduct Coordinator will create an Investigative Report that fairly summarizes relevant evidence, and provide that Report to the parties at least ten (10) business days prior the hearing for each party's review and written response.

The Investigative Report is not intended to catalog all evidence obtained by the investigator, but only to provide a fair summary of that evidence.

Only relevant evidence (including both inculpatory and exculpatory – i.e. tending to prove and disprove the allegations - relevant evidence) will be referenced in the Investigative Report.

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

Hearing

General Rules of Hearings

The live hearing may be conducted with all parties physically present in the same geographic location, or, at

Mercyhurst's discretion, any or all parties, witnesses, and other participants may appear at the live hearing virtually. This technology will enable participants simultaneously to see and hear each other. At its discretion, Mercyhurst may delay or adjourn a hearing based on technological errors not within a party's control.

All proceedings will be recorded through audio recording. That recording will be made available to the parties for inspection and review.

Prior to obtaining access to any evidence, the parties and their advisors must agree not to disseminate any of the testimony heard or evidence obtained in the hearing or use such testimony or evidence for any purpose unrelated to the Sexual and Gender Based Misconduct Policy.

Continuances or Granting Extensions

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

Newly-discovered Evidence

As a general rule, no new evidence or witnesses may be submitted during the live hearing.

If a party identifies new evidence or witnesses that were not reasonably available prior to the live hearing and could affect the outcome of the matter, the party may request that such evidence or witnesses be considered at the live hearing.

The Hearing Board Chair will consider this request and make a determination regarding (1) whether such evidence or witness testimony was actually unavailable by reasonable effort prior to the hearing, and (2) whether such evidence or witness testimony could affect the outcome of the matter. The party offering the newly-discovered evidence or witness has the burden of establishing these questions by the preponderance of the evidence.

If the Hearing Board Chair answers in the affirmative to both questions, then the parties will be granted a reasonable pause in the hearing to review the evidence or prepare for questioning of the witness.

Participants in the live hearing

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

Complainant and Respondent (The Parties)

- The parties cannot waive the right to a live hearing.
- The institution may still proceed with the live hearing in the absence of a party, and may reach a determination of responsibility in their absence, including through any evidence gathered that does not constitute a "statement" by that party.
    - For example, A verbal or written statement constituting part or all of the sexual harassment itself is not a "prior statement" that must be excluded if the maker of the statement does not submit to cross-examination about that statement.
- Mercyhurst will not threaten, coerce, intimidate or discriminate against the party in an attempt to secure the party's participation.
- The decision-maker cannot draw an inference about the determination regarding responsibility based solely on a party's absence from the live hearing or refusal to answer cross examination or other questions.

- The parties shall be subject to the institution's Rules of Decorum.

The Decision-maker

- The hearing body will consist of a three-person panel of decision-makers.
- No member of the hearing body will also have served as the Sexual and Gender Based Misconduct Coordinator, Sexual and Gender Based Misconduct investigator, or advisor to any party in the case, nor may any member of the hearing body serve on the appeals body in the case.
- No member of the hearing body will have a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.
- The hearing body will be trained on topics including how to serve impartially, issues of relevance, including how to apply the rape shield protections provided for complainants, and any technology to be used at the hearing.
- The parties will have an opportunity to raise any objections regarding a decision-maker's actual or perceived conflicts of interest or bias at the commencement of the live hearing.

Advisor of choice

- The parties have the right to select an advisor of their choice, who may be, but does not have to be, an attorney.
- The advisor of choice may accompany the parties to any meeting or hearing they are permitted to attend, but may not speak for the party, except for the purpose of cross-examination.
- The parties are not permitted to conduct cross-examination; it must be conducted by the advisor. As a result, if a party does not select an advisor, the institution will select an advisor to serve in this role for the limited purpose of conducting the cross-examination at no fee or charge to the party.
- The advisor is not prohibited from having a conflict of interest or bias in favor of or against complainants or respondents generally, or in favor or against the parties to the particular case.
- The advisor is not prohibited from being a witness in the matter.
- If a party does not attend the live hearing, the party's advisor may appear and conduct cross-examination on their behalf.
- If neither a party nor their advisor appear at the hearing, Mercyhurst will provide an advisor to appear on behalf of the non-appearing party.
- Advisors shall be subject to the institution's Rules of Decorum and may be removed upon violation of those Rules.

Witnesses

- Witnesses cannot be compelled to participate in the live hearing, and have the right not to participate in the hearing free from retaliation.
- Witnesses shall be subject to the institution's Rules of Decorum.

Hearing Procedures

For all live hearings conducted under this Sexual and Gender Based Misconduct Process, the procedure will be as follows:

- Hearing Board Chair will open and establish rules and expectations for the hearing;
- The Parties will each be given the opportunity to provide opening statements;
- Members of the Hearing Board will ask questions of the Parties and Witnesses;
- Parties will be given the opportunity for live cross-examination after the Hearing Board conducts its initial round of questioning; During the Parties' cross-examination, the Hearing Board Chair will have the authority to pause cross-examination at any time for the purposes of asking their own follow up questions; and any time necessary in order to enforce the established rules of decorum.

- Should a Party or the Party's Advisor choose not to cross-examine a Party or Witness, the Party shall affirmatively waive cross-examination through a written or oral statement to the Hearing Board Chair. A Party's waiver of cross-examination does not eliminate the ability of the Hearing Board to use statements made by the Party.

Live Cross-Examination Procedure

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

Before any cross-examination question is answered, Hearing Board Chair will determine if the question is relevant. Cross-examination questions that are duplicative of those already asked, including by Hearing Board may be deemed irrelevant if they have been asked and answered.

Review of Recording

The recording of the hearing will be available for review by the parties within five (5) business days, unless there are any extenuating circumstances. The recording of the hearing will not be provided to parties or advisors of choice.

Determination Regarding Responsibility

Standard of Proof

Mercyhurst uses the preponderance of the evidence standard for investigations and determinations regarding responsibility of formal complaints under this Policy. This means that the investigation and hearing determine whether it is more likely than not that a violation of the Policy occurred.

General Considerations for Evaluating Testimony and Evidence

While the opportunity for cross-examination is required in all Sexual and Gender Based Misconduct hearings, determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the Decision-maker.

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

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

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

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

Except where specifically barred by the Sexual and Gender Based Misconduct Policy, a witness' testimony regarding third-party knowledge of the facts at issue will be allowed, but will generally be accorded lower weight than testimony regarding direct knowledge of specific facts that occurred.

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

Components of the Determination Regarding Responsibility

The written Determination Regarding Responsibility will be issued simultaneously to all parties through their institution email account, or other reasonable means as necessary. The Determination will include:

- Identification of the allegations potentially constituting sexual harassment;
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding which section of the Conduct Code if any, the respondent has or has not violated.
- For each allegation:
    - A statement of, and rationale for, a determination regarding responsibility;
    - A statement of, and rationale for, any disciplinary sanctions the institution imposes on the respondent; and
    - A statement of, and rationale for, whether remedies designed to restore or preserve equal access to the university's education program or activity will be provided by the recipient to the complainant; and
- The university's procedures and the permitted reasons for the complainant and respondent to appeal (described below in "Appeal").

Timeline of Determination Regarding Responsibility

If there are no extenuating circumstances, the determination regarding responsibility will be issued by Mercyhurst within ten (10) business days of the completion of the hearing.

Finality

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

Appeals

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

The limited grounds for appeal available are as follows:

- Procedural irregularity that affected the outcome of the matter (i.e. a failure to follow the institution's own procedures);
- New evidence that was not reasonably available at the time the determination regarding responsibility or

dismissal was made, that could affect the outcome of the matter;

- The Sexual and Gender Based Misconduct Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter.

The submission of appeal stays any sanctions for the pendency of an appeal. Supportive measures and remote learning opportunities remain available during the pendency of the appeal.

If a party appeals, Sexual and Gender Based Misconduct Coordinator will as soon as practicable notify the other party in writing of the appeal, however the time for appeal shall be offered equitably to all parties and shall not be extended for any party solely because the other party filed an appeal.

Appeals should not exceed 1500 words. Appeals that do not meet this standard may be returned to the party for correction, but the time for appeal will not be extended unless there is evidence that technical malfunction caused the appeal document not to meet these standards.

Appeals will be decided by an Appeals Officer who will be free of conflict of interest and bias, and will not serve as investigator, Sexual and Gender based Misconduct Coordinator, or hearing decision maker in the same matter.

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

Retaliation

No person may intimidate, threaten, coerce, or discriminate against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under this Sexual and Gender Based Misconduct Policy.

Any intimidation, threats, coercion, or discrimination, for the purpose of interfering with any right or privilege secured by this policy constitutes retaliation. This includes any charges filed against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but that arise from the same facts or circumstances as a report or complaint of sex discrimination or a report or Formal Complaint of sexual harassment.

Good Samaritan Statement

Mercyhurst University views student safety as paramount. Student health and safety are the primary concerns of the Mercyhurst community. Students are expected to contact Police & Safety or the AD on duty when they believe that assistance for an intoxicated/impaired student is needed. Students and/or organizations that seek assistance from these sources, the individual assisted, and others involved may have applicable alcohol sanctions waived. In incidents of crisis or medical emergency, Mercyhurst students are expected to care for themselves and for others in the University community by getting help from appropriate officials even when violations of the Conduct Code have occurred. In crisis situations involving alcohol, drugs and/or sexual misconduct, the University strongly considers the positive impact of taking responsible action when determining the appropriate response for alleged policy violations relating to the incident. The granting of any form of amnesty remains a matter of discretion with the adjudicator. This policy does not preclude taking disciplinary action for violations associated with vandalism, theft, hazing, physical assault, sexual assault, or other policy violations. Amnesty under this policy is a matter of compassion, not a right. It is not to be abused by those who violate the Conduct Code repeatedly.

Complaints alleging retaliation may be filed according to the Mercyhurst Grievance policy.

Violation of Agreements

Parties who violate agreements made under this policy may be subject to conduct proceedings.

Employee/Faculty Disciplinary Proceedings Utilized in Cases of Alleged Domestic Violence, Dating Violence, Sexual Assault, Sexual Harassment and Stalking Not covered under Title IX

Sexual Harassment and other types of Unlawful Harassment

Mercyhurst University prohibits sexual harassment against any staff member, applicant, student, administrator, faculty member, or third-party vendor. Respect for the dignity and worth of each individual is a precept of the University. All persons will be held to standards of conduct which ensure that all members of the University community are free from sexual and other forms of harassment. The University's Gender and Sexual Misconduct Policy governs complaints involving claims of sexual harassment, discrimination, or violence. The policy can be accessed on the Human Resources HUB.

The University is committed to providing a work and academic environment that is free of discrimination and harassment and their effects in any form. It shall be a serious violation for any member of the Mercyhurst community to harass another member of the community through conduct or communication. Sexual and other unlawful harassment is unacceptable behavior in the workplace, classroom, and other University--related settings, such as University events or gatherings. Harassment in any form affects not only the victim, but other members of the community as well. Conduct of any harassing nature whatsoever has no legitimate business or academic purpose and is a violation of the University's work rules (See Disciplinary Action and Work Rules) and student conduct rules (See Student Handbook).

Non-Retaliation Policy

It is unlawful to retaliate in any way against anyone who has complained about harassment or discrimination. Members of the Mercyhurst community are encouraged to express displeasure at any conduct which may be sexually harassing or in any other way harassing, to tell individual(s) engaging in the conduct that it is unwelcome, and to report that conduct using the complaint procedures set forth in the relevant Gender and Sexual Misconduct policy or other applicable policies.

Complaint Procedure

Any employee who feels that he/she or others have been subjected to sexual or unlawful harassment by another employee, student or third party, should contact the Human Resources Office or the Title IX Coordinator to report the situation. The contact information for the Title IX Coordinator can be found in the University's Non-Discrimination notice. Additional information on filing a complaint can be found on the Human Resources HUB.

Disciplinary Action and Work Rules

Whenever groups of people live and work together, rules are necessary to protect the rights of all individuals. These rules are not intended to restrict employees' rights, but rather to ensure cooperation as well as equal and fair treatment.

The performance or actions of employees will, at times, require the University to take disciplinary action. The University recognizes that disciplinary procedures should be corrective and not simply punitive. Therefore, efforts are placed on preventing personnel problems rather than disciplining for employee misconduct. However, there may be cases in which disciplinary action is necessary, up to and including termination.

The University utilizes a progressive discipline model. The purpose of progressive discipline is to give each employee the opportunity to be made aware of problems and to allow time for corrective action. Progressive discipline means that a verbal warning will normally be given for a first violation of the University rules, followed by a written warning for a second violation, and finally discharge. These steps are normally followed, but they can be amended or superseded depending on the nature and severity of the situation. These steps are outlined in the sections below. In general, the employee will be asked to sign the warning to acknowledge receipt of it. A copy of any warning will be made part of the employee's personnel file.

Progression to the next step of the disciplinary procedure will not normally occur when the time period between a current violation of University rules and the most recent prior violation exceeds two (2) years. In this instance, progressive discipline will again commence at the verbal warning step.

Work rules are separated into two categories, addressing violations of greater and lesser magnitude. These lists are not intended to be all-inclusive and we have not attempted to list all rules which would otherwise be expected through common sense or courtesy. Other actions/behaviors may be determined as inappropriate at the sole discretion of the supervisor, in consultation with the area Vice President, and Human Resources.

Group I

Violation of a Group I rule is serious and the employee can expect the result of a first offense to be at least a verbal warning. Continued violations of any Group I rules will result in progressive discipline up to and including termination. A particularly serious first occurrence of Group I rules also may result in termination. Some examples of Group I offenses include but are not limited to:

- Abusive language or behavior.
- Failure to meet established departmental expectations or standards.
- Violation of safety rules.
- Failure to notify University of absence.
- Loitering or unauthorized time away from work area.
- Posting or removing notices, signs, or writing in any form on bulletin boards or University property without specific approval.
- Failure to follow supervisor's instructions.
- Extending lunch or breaks beyond authorized time.
- Failure to immediately report on-the-job accidents or injuries to supervisor.

Group II

Violation of a Group II rule is extremely serious. Employees suspected of Group II misconduct may be immediately suspended while the matter is investigated. If the investigation confirms Group II misconduct, it will result in either a suspension (of up to three days) or termination, depending upon the prior disciplinary record of the employee and the severity of the violation. Some examples of Group II offenses include but are not limited to.

- Using, possessing and/or distributing illegal drugs or working under the influence of illegal drugs or alcohol.
- Reporting for work under the influence of alcohol or drugs.
- Insubordination, including deliberate failure or refusal to perform work assigned.
- Dishonesty in any aspect of employment.
- Falsifying University records or making false statements regarding University Falsifying University records or making false statements regarding University records.
- Abuse, deliberate damage, destruction, misuse, or unauthorized use of University property or the property of other employees, students, or visitors.
- Immoral or indecent behavior.
- Stealing or unauthorized possession of University property or the property of other employees, students, or visitors.

- Threatening, intimidating, harassing, coercing, abusing, insulting or otherwise interfering with another employee.
- Unauthorized entry on University property while under suspension.
- Violation of the University solicitation and distribution policy.
- Possession of firearms and dangerous weapons or materials on University property.

Except in the most severe cases, where immediate dismissal or suspension is required, progressive discipline will be administered. The steps of the progressive discipline process are outlined I the following sections.

The steps of the progressive discipline process:

Coaching and/or Counseling (Verbal Warning)

1st Step. If a problem is minor, the supervisor will discuss the problem with the employee informally. In the course of the discussion, the supervisor will define his/her expectations in regard to the situation and what is appropriate and/or acceptable behavior.

Formal Warning

2nd Step. If a problem persists, the supervisor will usually prepare a formal written statement of the problem, including specific information/guidelines on what is expected of the employee in order for his/her job performance to be satisfactory.

Termination

3rd Step. The employee normally will be provided a written notice stating the specific reasons for termination.

SEX OFFENDER REGISTRY AND ACCESS TO RELATED INFORMATION

The Adam Walsh Child Protection and Safety Act of 2006 provides for the registration and tracking of sex offenders. Institutions of higher education are required to issue a statement advising the campus community of where to obtain law enforcement agency information provided by a state concerning registered sex offenders. The law also requires sex offenders already required to register in a State to provide notice, as required under State law, of each institution of higher education in that State at which the person is employed, carries on a vocation, or is a student.

In the Commonwealth of Pennsylvania, information regarding registered sex offenders who are subject to community notification may be obtained from a community member's respective local municipal police agency and/or the Pennsylvania State Police. In the City of Erie, information regarding registered sex offenders who are subject to community notification may be obtained at the City of Erie Police Department, located at 626 State Street (phone: 814-870-1125); or at the Pennsylvania State Police – Lawrence Park Barracks, located at 4230 Irquois Ave (phone: 814-989-1641). This information can also be obtained by visiting the Pennsylvania State Police's Megan's Law website.

RESIDENCE HALL ROOM OPTIONS/ROOM ASSIGNMENTS

Room selection is conducted each spring for rising sophomores, juniors, and seniors using a lottery process. Lottery numbers are assigned by expected graduation term (not credits) and housing point total. During the spring semester, students receive full instructions pertaining to residence hall room selection for the next academic year. Each student is encouraged to have a roommate before participating in the room selection process. Since Mercyhurst University is a residential University, a limited number of seniors are released from the residency requirement and given permission to live off campus each year through an application process.

Off-campus approval is granted in the spring for the following year as part of the room selection process. Students who live off-campus are expected to do so for the entire year.

GUESTS/VISITORS

University housing is provided for the exclusive use of Mercyhurst university students as assigned by residence Life.
Visitors may be allowed to use residence facilities with the following guidelines:

- In order for a student to host a guest in the room, the student must ask all other roommates for permission to host a guest. Students are not able to host a guest unless all other roommates agree to allow the guest into their space.
- Visitors are permitted for only three consecutive days and totaling no more than 8 days in a one-month period. No student is authorized to permit extended use of University housing facilities (including rooms) to any visitor, either student or non-student, when such use, because of its duration or frequency, constitutes a de facto sub-contracting of University facilities to an unauthorized person.
- No student is authorized to permit use of University housing facilities (including rooms) for any visitor, either student or non-student, when such use becomes a source of complaint to the roommate(s), members of the floor/residence hall, or University staff.
- The host student has complete responsibility for all visitors. Students accused of violating this policy may be subject to conduct action. If visitors violate University policy, the host student will be held responsible and is subject to conduct action. The visitor, either student or non-student, will be removed from University housing and may be prohibited from returning to campus.
- Guests must register their vehicle with MUPD.
- Guests in the Freshman area must be escorted at all times.

TRAINING OF RESIDENCE HALL STAFF

The Mercyhurst University Police Department (MUPD), and Director of Protective Services provide annual security and life safety training. This training minimally includes: introduction of officers, description of services offered, instruction on fire safety hazards and building evacuation, instruction on the emergency operations plan and emergency notification system, training related to the Clery Act and Campus Security Authorities (CSA), Title IX Awareness training, and general information on requesting emergency assistance from Public Safety.

Other related training conducted for the Resident Assistants by members of MUPD and the Director of Protective Services: locking buildings, responding to fire alarms, and other crisis response procedures. Several times each academic year, MUPD and Protective Services are invited into each traditional residence hall to conduct informal meetings with students on security, fire and enforcement procedures.

WEAPONS POLICY

Mercyhurst University Police Officers are armed and carry firearms. Officers are Taser and Baton certified, and patrol officers and security Officers may carry pepper spray and handcuffs. Outside law enforcement personnel who are authorized to possess weapons may do so within the scope of their authority. No other persons are permitted to possess weapons on University property, even if such weapons are legally registered.

COMMUNITY COMPLAINTS/FEEDBACK

The Mercyhurst University Police Department encourages community members to bring forward legitimate grievances regarding misconduct by employees. Any member of the Department will receive complaints courteously, and they will be handled efficiently. All complaints will be taken seriously and thoroughly investigated by the Chief of Police or designee. Additionally, the University occasionally conducts community

surveys to receive feedback regarding its operations and services. The Chief of Police uses this feedback as part of the Department's strategic planning process. Students are an integral part of the Department's operations and strategic planning process. Regular feedback regarding the Department's performance is received from a variety of student groups and organizations.

MISSING STUDENTS

The University has adopted a missing student notification policy for students residing in on-campus residential facilities. In addition to registering a general emergency contact, all students residing in on-campus student housing facilities have the option to annually register confidential contact information for a person to be notified by the University in the event the student is officially reported as missing by completing Mercyhurst University online Missing Person Contact page. The University will ensure that all students are able to update their contact information whenever needed. These procedures and registration process are communicated to students when registering for housing each academic year. The contact information will be confidential, accessible only by authorized campus officials and law enforcement, and may not be disclosed outside a missing person investigation. If a student has identified such an individual, MUPD or Residence Life officials will notify that individual no later than 24 hours after the student is determined to be missing.

If a member of the University community has reason to believe that a student who resides in on-campus student housing is missing, they must immediately notify MUPD at: (814) 824-3911. MUPD will generate a Missing Person report and initiate an investigation.

After investigating the Missing Person report, should MUPD determine that the student is missing and has been missing for more than 24 hours (regardless of whether the student has identified a contact person, is above the age of 18, or is an emancipated minor), MUPD or a representative from Residence Life will notify the City of Erie Police Department, North East Police Department, Pennsylvania state Police or law enforcement authority with jurisdiction and the student's emergency contact no later than 24 hours after the student is determined to be missing, unless the local law enforcement agency was the entity that made the determination that the student was missing.

If the missing person is under the age of 18 and is not an emancipated individual, MUPD or a representative from Residence Life must and will notify the student's custodial parent or legal guardian, the missing person contact, and the Erie Police or local law enforcement with jurisdiction immediately after MUPD has determined that the student has been missing for more than 24 hours, in addition to notifying any additional contact person designated by the student.

If a student has been determined missing for more than 24 hours, in addition to the above notifications, specific procedures to follow include: contacting the student's RAs, checking with emergency health care providers, and taking such other investigative actions as are appropriate under the circumstances. The University will implement these procedures in less than 24 hours if circumstances warrant a faster implementation.

Section 3701(a) of the Federal Crime Control Act of 1990 (42 U.S.C. 5779 (a)) eliminated any waiting period before initiating an investigation of a missing person under the age of twenty-one (21) years and reporting that person to the National Crime Information Center (NCIC) of the Department of Justice. Officers will manage reports of missing persons eighteen (18) to twenty (20) years of age consistent with this general order and without regard to their adult status. This is referred to as "Suzanne's Law".

EMERGENCY MEDICAL RESPONSE PROCEDURES

Students, faculty, staff, and guests should report any emergency medical situations to Mercyhurst Police Department immediately at: (814) 824-3911, or to the Erie County emergency center by dialing 911.

MUPD uniformed patrol supervisors and officers are Red Cross-trained as emergency medical responders to provide medical assessment and basic emergency care. MUPD can summon an ambulance through the Erie County Emergency Center.

CRIME PREVENTION, FIRE SAFETY, AND SAFETY AWARENESS PROGRAMMING

Mercyhurst University offers many programs designed to inform students and employees about campus security procedures and practices and the prevention of crimes. A common theme of all awareness and crime prevention programs is to encourage students and employees to be responsible for their own safety and for the safety of others on campus. Crime prevention programs on personal safety and security are sponsored by various campus organizations throughout the year. These programs include general crime prevention and security awareness programs, such as safety education forums, programs, and discussions about topics such as alcohol abuse, sexual assault awareness and prevention, relationship violence awareness and prevention, bystander intervention, fire safety, emergency response and evacuation procedures, and theft prevention. MUPD, Protective Services, Residence Life, Campus Involvement, Health and Counseling Center, Student Conduct, and the Title IX Coordinator participate in forums, panels, meetings, and programs in residence halls, with athletic teams, and events to explain University security, campus safety, campus policies, and expectations related to student conduct and behavior and fire safety measures and procedures at Mercyhurst University with all incoming students during the fall orientation program and throughout the academic year with the whole community.

New-employee orientation includes the distribution of crime prevention and fire safety materials to all new employees during scheduled orientation sessions throughout the year.

Additional safety awareness and crime prevention training/programming occurs at the end of each fire/evacuation drill, during RA, HD, and AD training, and during other special campus events and safety forum throughout the year.

ANNUAL FIRE SAFETY REPORT

Mercyhurst University Police Department publishes this Fire Safety Report as part of its annual Clery Act Compliance document, via this annual report, which contains information with respect to the fire safety practices and standards for Mercyhurst University. This report includes statistics concerning the number of fires within on-campus residential facilities, the cause of each fire, the number of injuries and deaths related to a fire, and the value of the property damage caused by a fire. The compliance document is available for review 24 hours a day at the MUPD, and a physical copy may be obtained by making a request to MUPD by calling (814) 824-3911, or by visiting MUPD Headquarters in person at McAuley Hall Lower Level, 501 E 38th St. Erie Pa.

General Residence Hall Fire Safety:

With exception as noted below, all of Mercyhurst University on-campus residential student housing facilities are completely covered by integrated automatic sprinklers and hard-wired addressable fire alarm systems, which are monitored twenty-four hours a day, seven days a week by the MUPD communications center.

Special Notes:

1. The spaces within residence halls located on campus at the Wayne Street Apartments, 41st townhouses, and Lewis Avenue Townhouses are not covered by a sprinkler system or hard-wired addressable fire alarm systems (smoke detectors were included and fire alarms reported locally on-site).

In addition, on-campus residential facilities have the following life safety systems: portable fire extinguishers, carbon monoxide detectors, emergency lighting, emergency exit signs and doors, fire tower stairways, and emergency phones. A quality control program ensures that each building is inspected by trained building inspectors on a regular basis to ensure that these systems are in working condition and includes a yearly fire alarm systems test and inspection. In addition, the sprinkler systems are tested and inspected biannually.

Each resident is notified of the Student Handbook, which includes information on fire safety and what appropriate action to take during a fire alarm or fire emergency. Every student room has an emergency evacuation map installed on the inside of the front door as well, to direct occupants to primary and secondary exits. Fire drills are conducted biannually by the Director of Protective Services.

If a fire occurs in a Mercyhurst University-owned, -rented, -leased, or otherwise controlled building, community members should immediately notify the local fire department by dialing 911. MUPD can be contacted at (814) 824-3911. MUPD will initiate a response to all fire alarms or reports it receives. Upon confirmation of a fire, MUPD will immediately summon the local fire department for assistance by contacting the 911 Erie County Emergency Center.

Fires should be immediately reported to the Mercyhurst Police Department (MUPD). If a member of the Mercyhurst University community finds evidence of a fire that has been extinguished, and the person is not sure whether MUPD has already responded, the community member should immediately notify MUPD to investigate and document the incident. For example, if a housekeeper finds evidence of a fire in a trashcan in the hallway of a residence hall, they should not touch the trashcan, and should report the incident to MUPD immediately and wait for an officer's response. The officer will document the incident prior to removing the trashcan. Fire alarms alert community members of potential hazards, and community members are required to heed their warning and evacuate buildings immediately upon hearing a fire alarm in a facility. Use the nearest stairwell and/or exit to leave the building immediately. Do not use the elevator. Community members should familiarize themselves with the exits in each building.

The Protective Services Director can work with other University offices to levy fines and penalties upon individuals who fail to evacuate a building promptly – but a more important reason for evacuating is for safety! When a fire

alarm is activated, the elevators in most buildings will stop automatically. Occupants should use the stairs to evacuate the building.

Procedures for Students and Employees in the Event of a Fire:

Find nearest pull station and sound central alarm, or call 911, or contact MUPD directly at: (814) 824-3911.

- Shut all doors and windows in the vicinity of the fire
- If the fire is small, use fire extinguishers to put it out
- Exit by nearest safe stairway
- Do not use the elevators
- Do not run
- If there is smoke in the room, keep low to the floor
- Try to exit the room, feel the doorknob
    - If it is hot, do not open the door
    - If the doorknob is not hot, brace yourself against the door and crack it open
    - If there is heat or heavy smoke, close the door and stay in your room
- Don't panic
- Seal up the cracks under the door with sheets, or towels
- If there is smoke in the room, crack the windows at the bottom and at the top, if possible, to allow for ventilation
- Hang a sheet or towel from the window to announce that you are in your room
- Call MUPD at: (814) 824-3911; be sure to give your room number and your location
- If you can exit the room, put on shoes (and if necessary, a coat). If smoke is evident, get a wet towel to cover your face
- Close all doors
- If in exiting the building you are blocked by fire, go to the safest fire-free area, or stairwell. If a phone is available call MUPD; or find a window, and signal that you are still in the building.

Student Residence Hall Fire Evacuation Procedures in Case of a Fire:

- The fire alarm system may be used to evacuate a building(s) if there is a potential threat to the health and safety of that segment of the community.
- Activate the building fire alarm if it is not already sounding. Pull a fire alarm station on the way out.
- Leave the building by using the nearest exit.
- Crawl if there is smoke. Cleaner, cooler air will be near the floor. Get Low and Go.
- Before opening any doors, feel the metal knob. If it is hot, do not open the door. If it is cool, brace yourself against the door, open it slightly, and if heat or heavy smoke are present, close the door and stay out of the room.
- Go to the nearest exit or stairway. If the nearest exit is blocked by fire, heat, or smoke, go to another exit. Always use an exit stairway, not an elevator. Elevator shafts may fill with smoke, or the power may fail, leaving you trapped. Stairway fire doors will keep out fire and smoke, if they are closed, and will protect you until you get outside. Close as many doors as possible as you leave. This helps to confine the fire. Total and immediate evacuation is safest. Only use a fire extinguisher if the fire is very small and you know how to do it safely. Do not delay calling emergency responders or activating the building fire alarm. If you cannot put out the fire, leave immediately. Make sure the fire department is called—even if you think the fire is out.
- If you get trapped, keep the doors closed. Place cloth material (wet, if possible) around and under door to prevent smoke from entering.
- Be prepared to signal your presence from a window.
- Signal for help. Hang an object at the window (jacket, shirt) to attract the fire department's attention. If there is a phone in the room, call 911 or 3911 from an on-campus phone, or (814) 824-3911 from a cellular phone, and report that you are trapped. Be sure to give your room number and location. If all exits from a floor are blocked, go back to your room, close the door, seal cracks, open the windows if safe, wave something out the window, and shout or phone for help.
- If you are on fire, stop, drop and roll, wherever you are. Rolling smothers fire.

- Cool burns. Use cool tap water on burns immediately. Don't use ointments. If skin is blistered or charred, call for an ambulance.
- Be aware of obstacles. Storage of any items in the corridors, such as bicycles, chairs, desks, and other items is prohibited in all exit ways, including stairwells. Blocked exits and obstacles impede evacuation, especially during dark and smoky conditions.
- If you are a person with a disability (even temporarily), you should do the following:
    - Learn about fire safety
    - Plan ahead for fire emergencies
    - Be aware of your own capabilities and limitations

Plans for Future Improvements in Fire Safety:

We strive to constantly improve and expand on our in-service training sessions for all Residential Life student staff, MUPD staff, and other housing staff. This training includes basic fire safety topics and hands-on fire extinguisher training courses.

The University continues to assess and upgrade fire safety equipment as an ongoing process, to ensure that all equipment meets National Fire Safety standards. Future improvements will be made as needed as part of the ongoing assessment, budget, and strategic planning process.

Life Safety Inspections and Violations:

The Office of Residence Life conducts full-scale Health and Safety (H&S) inspections three times a year – once during winter break, once during spring break, and once during the summer months prior to the start of each fall semester. Life and Fire Safety building inspectors conduct regular inspections of residential hall common areas throughout the academic year. Full-scale building/hall inspections are announced. Not all common area inspections are announced. The Life Safety inspections are primarily designed to find and eliminate safety violations. Students are required to read and comply with the Residential Guidelines, which include life and fire safety rules and regulations for residential buildings.

The inspections include, but are not limited to, a visual examination of electrical cords, sprinkler heads, smoke detectors, fire extinguishers, and other life safety systems. In addition, each room will be examined for the presence of prohibited items (e.g., sources of open flames, such as candles; non-surge protected extension cords; halogen lamps; portable cooking appliances in non-kitchen areas; etc.) or prohibited activity (e.g., smoking in the room, tampering with life safety equipment, possession of pets, etc.). This inspection will also include a general assessment of food and waste storage and cleanliness of the room.

Prohibited Items and Prohibited Conduct:

If a student's behavior does not meet University community expectations or is in violation of the policies outlined in the Residence Hall Housing License Agreement or the Handbook of Student Rights and Responsibilities, they may expect conduct action. Mercyhurst University expects students, as adults, to maintain a standard of personal discipline that is in harmony with the educational goals of the institution, federal, state, and local laws, and to respect the rights, privileges, and property of fellow students, faculty, staff, and administrators. Students are responsible for the items contained in their rooms and the events that occur in their rooms. Special surveillance resources may be utilized by the University when conduct issues become chronic or disruptive.

Prohibited Items:

The following items are prohibited in residence halls:

- Guns; firearms; knives longer than three inches; or weapons of any type, including BB and pellet guns
- Candles and/or incense (lit or unlit)
- Tapestries, banners, and flags. These items cannot be hung on walls, ceilings, or over windows. Window treatments such as curtains must be made of a fabric that resists or retards the spreading of flames and has either a UL fire rating #723 or NFPA 225
- Room-heating devices, including all space heaters, kerosene or oil lamps, and alcohol burners
- Gasoline-powered items, such as motorcycles, mopeds, or parts thereof

- Pressurized tanks (e.g., helium tanks)
- Flammable and/or combustible liquids and/or chemicals, including gasoline and charcoal
- Grills of any type (except UL-listed Foreman-style grills in apartments)
- Fireworks, smoke bombs, sparklers, etc.
- Drug paraphernalia and illegal drugs
- Animals or pets of any kind, except certified service animals or non-carnivorous fish; refer to the University's Pet Policy in the Student Handbook and on the University website
- Light dimmers, ceiling fans, or any other device that replaces, adds to, or interferes with any room apparatus
- Excessive furniture that blocks or restricts egress from sleeping areas
- Physical training equipment
- Three-section couches
- Waterbeds, and beds other than twin size
- Dartboards and darts
- Nails, hooks, double-faced adhesive tape, or other items that will damage walls
- Live trees
- Personal lofts
- Hoverboards

The following electrical appliances and corded items are prohibited in residence halls (Note: all cords and permitted appliances must be UL Listed):

- Portable and electrical appliances (including toasters, toaster ovens, hot plates, etc.)
- Halogen lamps
- Overloaded electrical receptacles
- Faulty or old extension cords
- Portable washers, dryers, and dishwashers
- Personal room refrigerators (only permitted in apartments)
- Air conditioners (except for a certified disability)
- Microwaves other than a micro fridge (microwaves are permitted in apartments, limit one)

NOTE: The preceding list is not all inclusive; any item that is a threat to public safety may be removed. In addition to confiscation, violators may pay a monetary fine and may be subject to Conduct action.

Prohibited Conduct:

The following activities and actions are prohibited in residence halls and may result in conduct action:

- Smoking inside any residential space, this includes the use of electronic cigarettes
- Open flames
- Draping or placing objects, including fabric, over lighting fixtures, smoke detectors, or fire sprinkler systems
- Hanging cardboard, plastic, or fabric (e.g., tapestries, banners, and flags) on walls, ceilings, light fixtures, or fire sprinkler apparatus. Posters on walls can't exceed 25% of the total wall surface.
- Hanging stringed lights on the exterior of buildings without the advance, expressed, written consent of the Office of Residential & First-Year Programs. Inside residence halls, students may use up to three strands of stringed lights per room; all stringed lights must be UL-approved.
- Wrapping or placing wires or stringed lights in the area of beds
- Lending keys to others, copying keys, possession of keys that are not authorized for your use
- Water fights, ball playing, bike riding, or similar activities that may cause harm to persons or property
- Storage of bicycles in stairwells, halls, or rooms
- Storage of personal items such as sports bags/equipment, furniture, or suitcases in stairwells or halls
- Throwing any items into or out of windows
- Altering, tampering, or dismantling any door closure or propping open any exterior door
- Cooking food in individual rooms (other than in micro fridges)

- Solicitation of goods or services, except by Mercyhurst University students who have received prior approval from the Vice President for Student Life
- Painting, wallpapering, or similarly decorating individual rooms or common areas, unless prior approval is given by the Office of Residential & First-Year Programs and Facilities Services
- Repairing any damages or the removal or replacement of light bulbs in ceiling fixtures that have not been provided by the Facilities staff
- Removal, destruction, disassembling, or altering of any furniture in a room
- Removing screens from windows
- Installing wall partitions or paneling
- Modifying or tampering with circuit breakers or any part of the electrical system
- Installing and subscribing to a cable or satellite TV provider
- Installing personal locks or chains on doors or windows
- Sleeping in public areas of the residence halls by residents and/or guests
- Entering the Quarry pond - this includes wading, swimming, and ice skating
- Vehicle maintenance on University property

DAILY CRIME AND FIRE LOG

The Mercyhurst University Police Department makes the Daily Crime and Fire Logs for the most recent 60-day period open to public inspection at the MUPD Headquarters, located in the Lower Level of McAuley Hall, 501 E 38th St Erie, Pa. Any portion of these crime and fire logs that are older than 60 days are made available for public inspection within two business days of a request. All confirmed fires occurring within or on any and all on-campus residential facilities will also be included in the Daily Crime and Fire Log. The information in the crime and fire log typically includes the incident number, crime classification or nature of the fire, date reported, date occurred, general location of crime or fire, and disposition of each reported crime or fire. Faculty, staff, and students are encouraged to review these logs periodically to become more familiar with the types and locations of criminal incidents and fires that may impact the University's campus community.

Additionally, in accordance with the Pennsylvania Uniform Crime Reporting Act, the personal identifying information (name and address) of all non-juveniles arrested (by summons, citation, or custodial arrest) during an incident that gets listed in the Daily Crime and Fire Log will be included in the log's disposition category. The names of crime victims will not be listed on the Daily Crime and Fire Log.

Unless the disclosure is prohibited by law or would jeopardize the confidentiality of the victim, newly reported crimes/incidents within the University's Clery geography and updated information regarding previously reported crimes are entered onto the Daily Crime and Fire Log within two business days of when it is reported to the Department of Public Safety. It is important to note that MUPD has no jurisdiction outside of its identified Clery geography.

EMERGENCY BUILDING EVACUATION DRILLS

Fire/emergency building evacuation drills are conducted biannually each year in residence halls, academic, and administrative facilities. Emergency Building Evacuation Drills are conducted to familiarize occupants with emergency egress from a building and to establish conduct of the drill to a matter of routine. Drills will include suitable procedures, such as potential room-to-room checks, to ensure that all persons subject to the drill participate. Any person who fails to participate in a drill will be subject to disciplinary action by the appropriate authority. In the conduct of drills, emphasis shall be placed on orderly evacuation rather than speed.

Drills shall be held at expected and unexpected times, and under varying conditions to simulate the unusual conditions that can occur in an actual emergency. Participants shall relocate to a safe location outside the building and remain at such location until a recall signal is given or further instruction.

FIRE INVESTIGATIONS/ARSON

Every fire that is not known to be accidental (such as a cooking fire) is investigated by a trained arson investigator. The primary investigator in response to fire incidents is the Director Protective Services. Fires determined through investigation to be willfully or maliciously set are classified as arsons for Clery reporting purposes.

FIRE SAFETY SYSTEMS IN MERCYHURST UNIVERSITY ON-CAMPUS RESIDENTIAL FACILITIES (2021)

Current Fire Safety Systems in place within On-Campus Residential Facilities as of Calendar Year 2021							
Facility	Clery Classification	Fire Alarm Monitoring Done on Site by MUPD	Fully Sprinklered	Smoke Detection	Fire Extinguisher Devices	Evacuation Plans & Placards	Number of Evacuation (fire) Drills Each Calendar Year
611-13 East 38th St. Briggs Apartments	On-Campus	YES	NO	YES	YES	YES	BIANNUAL
3808-10 Briggs Av. Briggs Apartments	On-Campus	YES	NO	YES	YES	YES	BIANNUAL
3828-30 Briggs Av. Briggs Apartments	On-Campus	YES	NO	YES	YES	YES	BIANNUAL
3908-10 Briggs Av. Briggs Apartments	On-Campus	YES	NO	YES	YES	YES	BIANNUAL
3924-26 Briggs Av. Briggs Apartments	On-Campus	YES	NO	YES	YES	YES	BIANNUAL
3807-09 Briggs Av. Briggs Apartments	On-Campus	YES	NO	YES	YES	YES	BIANNUAL
3827-29 Briggs Av. Briggs Apartments	On-Campus	YES	NO	YES	YES	YES	BIANNUAL
3907-09 Briggs Av. Briggs Apartments	On-Campus	YES	NO	YES	YES	YES	BIANNUAL
3808-10 Lewis Av. Lewis Apartments	On-Campus	YES	NO	YES	YES	YES	BIANNUAL
3807-09 Lewis Av. Lewis Apartments	On-Campus	YES	NO	YES	YES	YES	BIANNUAL
3827-29 Lewis Av. Lewis Apartments	On-Campus	YES	NO	YES	YES	YES	BIANNUAL
3808-10 Lewis Av. Lewis Apartments	On-Campus	YES	NO	YES	YES	YES	BIANNUAL
3907-09 Lewis Av. Lewis Apartments	On-Campus	YES	NO	YES	YES	YES	BIANNUAL
3923-25 Lewis Av. Lewis Apartments	On-Campus	NO	NO	YES	YES	YES	BIANNUAL
3937-43 Lewis Av. Lewis Apartments	On-Campus	NO	NO	YES	YES	YES	BIANNUAL
3947-53 Lewis Av. Lewis Townhouses	On-Campus	NO	NO	YES	YES	YES	BIANNUAL
4009-17 Lewis Av. Lewis Townhouses	On-Campus	NO	NO	YES	YES	YES	BIANNUAL
730-40 East 41st St. 41st St Townhouses	On-Campus	NO	NO	YES	YES	YES	BIANNUAL
744-50 East 41st St. 41st St Townhouses	On-Campus	NO	NO	YES	YES	YES	BIANNUAL
4008 Wayne St. Wayne Apartments	On-Campus	YES	NO	YES	YES	YES	BIANNUAL

FIRE SAFETY SYSTEMS IN MERCYHURST UNIVERSITY ON-CAMPUS RESIDENTIAL FACILITIES (2021)- Continued

Current Fire Safety Systems in place within On-Campus Residential Facilities as of Calendar Year 2021

Facility	Clery Classification	Fire Alarm Monitoring Done on Site by MUPD	Fully Sprinklered	Smoke Detection	Fire Extinguisher Devices	Evacuation Plans & Placards	Number of Evacuation (fire) Drills Each Calendar Year
745 East 40th St. Wayne Apartments	On-Campus	YES	NO	YES	YES	YES	BIANNUAL
742 East 40th St. Wayne Apartments	On-Campus	YES	NO	YES	YES	YES	BIANNUAL
501 East 38th St. Mercy Suites 100-200-300	On-Campus	YES	NO	YES	YES	YES	BIANNUAL
501 East 38th St Duvall Apts	On-Campus	YES	YES	YES	YES	YES	BIANNUAL
501 East 38th St Warde Townhouses	On-Campus	YES	NO	YES	YES	YES	BIANNUAL
501 East 38th St Baldwin Hall	On-Campus	YES	NO	YES	YES	YES	BIANNUAL
501 East 38th St Warde Hall	On-Campus	YES	YES	YES	YES	YES	BIANNUAL
501 East 38th St Ryan Hall	On-Campus	YES	YES	YES	YES	YES	BIANNUAL
501 East 38th St McAuley Hall	On-Campus	YES	NO	YES	YES	YES	BIANNUAL
444 E Grandview Blvd Grandview Hall	On-Campus	YES	YES	YES	YES	YES	BIANNUAL

ANNUAL FIRE SAFETY REPORT/FIRE STATISTICS (On-campus Residential Facilities) - 2021 - 2020 - 2019

ANNUAL FIRE SAFETY REPORT/FIRE STATISTICS (On-Campus) CALENDAR YEAR 2021						
Statistics and Related Information Regarding Fires in On-Campus Residential Facilities						
Residential Facilities	Total Fires in Each Building	Fire Number	Cause of Fire	Number of Injuries that Required Treatment at a Medical Facility	Number of Deaths Related to a Fire	Value of Property Damage Caused by Fire
611-13 East 38th St. Briggs Apartments	0	0	N/A	0	0	N/A
3808-10 Briggs Av. Briggs Apartments	0	0	N/A	0	0	N/A
3828-30 Briggs Av. Briggs Apartments	0	0	N/A	0	0	N/A
3908-10 Briggs Av. Briggs Apartments	0	0	N/A	0	0	N/A
3924-26 Briggs Av. Briggs Apartments	0	0	N/A	0	0	N/A
3807-09 Briggs Av. Briggs Apartments	0	0	N/A	0	0	N/A
3827-29 Briggs Av. Briggs Apartments	0	0	N/A	0	0	N/A
3907-09 Briggs Av. Briggs Apartments	0	0	N/A	0	0	N/A
3808-10 Lewis Av. Lewis Apartments	0	0	N/A	0	0	N/A
3807-09 Lewis Av. Lewis Apartments	0	0	N/A	0	0	N/A
3827-29 Lewis Av. Lewis Apartments	0	0	N/A	0	0	N/A
3907-09 Lewis Av. Lewis Apartments	0	0	N/A	0	0	N/A
3923-25 Lewis Av. Lewis Apartments	0	0	N/A	0	0	N/A
3937-43 Lewis Av. Lewis Townhouses	0	0	N/A	0	0	N/A
3947-53 Lewis Av. Lewis Townhouses	0	0	N/A	0	0	N/A
4009-17 Lewis Av. Lewis Townhouses	0	0	N/A	0	0	N/A
730-40 East 41st St. 41st St Townhouses	0	0	N/A	0	0	N/A

ANNUAL FIRE SAFETY REPORT/FIRE STATISTICS (On-Campus)
CALENDAR YEAR 2021 - Continued

Statistics and Related Information Regarding Fires in On-Campus Residential Facilities

Residential Facilities	Total Fires in Each Building	Fire Number	Cause of Fire	Number of Injuries that Required Treatment at a Medical Facility	Number of Deaths Related to a Fire	Value of Property Damage Caused by Fire
744-50 East 41st St. 41st St Townhouses	1	1	Unintentional – Improper storage of items in stove	0	0	$100-999
4008 Wayne St. Wayne Apartments	0	0	N/A	0	0	N/A
745 East 40th St. Wayne Apartments	0	0	N/A	0	0	N/A
742 East 40th St. Wayne Apartments	0	0	N/A	0	0	N/A
501 East 38th St Mercy Suites 100-200-300	0	0	N/A	0	0	N/A
501 East 38th St Duvall Apartments	0	0	N/A	0	0	N/A
501 East 38th St Warde Townhouses	0	0	N/A	0	0	N/A
501 East 38th St Baldwin Hall	0	0	N/A	0	0	N/A
501 East 38th St McAuley Hall	0	0	N/A	0	0	N/A
501 East 38th St Warde Hall	0	0	N/A	0	0	N/A
501 East 38th St Ryan Hall	0	0	N/A	0	0	N/A
444 E Grandview Blvd Grandview Hall	0	0	N/A	0	0	N/A

*NOTE: Due to a change in the Clery Act definition of "reasonably contiguous" outlined within the *2016 Campus Safety and Security Handbook,* all University owned or controlled buildings and property within one mile of the University's core campus boundary that were previously considered noncampus have been reclassified starting with CY 2016 to on-campus properties. As such, previously considered non-campus residential facilities that are within one mile of the University's core campus boundary are now considered on-campus properties and have been added to the Fire Safety Data and Statistics and Fire Safety Policy Requirements; as outlined by 2008 Higher Education Opportunity Act or HEOA.

ANNUAL FIRE SAFETY REPORT/FIRE STATISTICS (On-Campus)
CALENDAR YEAR 2020

Statistics and Related Information Regarding Fires in On-Campus Residential Facilities

Residential Facilities	Total Fires in Each Building	Fire Number	Cause of Fire	Number of Injuries that Required Treatment at a Medical Facility	Number of Deaths Related to a Fire	Value of Property Damage Caused by Fire
611-13 East 38th St. Briggs Apartments	0	0	N/A	0	0	N/A
3808-10 Briggs Av. Briggs Apartments	0	0	N/A	0	0	N/A
3828-30 Briggs Av. Briggs Apartments	0	0	N/A	0	0	N/A
3908-10 Briggs Av. Briggs Apartments	0	0	N/A	0	0	N/A
3924-26 Briggs Av. Briggs Apartments	0	0	N/A	0	0	N/A
3807-09 Briggs Av. Briggs Apartments	0	0	N/A	0	0	N/A
3827-29 Briggs Av. Briggs Apartments	0	0	N/A	0	0	N/A
3907-09 Briggs Av. Briggs Apartments	0	0	N/A	0	0	N/A
3808-10 Lewis Av. Lewis Apartments	0	0	N/A	0	0	N/A
3807-09 Lewis Av. Lewis Apartments	0	0	N/A	0	0	N/A
3827-29 Lewis Av. Lewis Apartments	0	0	N/A	0	0	N/A
3907-09 Lewis Av. Lewis Apartments	0	0	N/A	0	0	N/A
3923-25 Lewis Av. Lewis Apartments	0	0	N/A	0	0	N/A
3937-43 Lewis Av. Lewis Townhouses	0	0	N/A	0	0	N/A
3947-53 Lewis Av. Lewis Townhouses	0	0	N/A	0	0	N/A
4009-17 Lewis Av. Lewis Townhouses	0	0	N/A	0	0	N/A
730-40 East 41st St. 41st St Townhouses	0	0	N/A	0	0	N/A

ANNUAL FIRE SAFETY REPORT/FIRE STATISTICS (On-Campus)
CALENDAR YEAR 2020 - Continued

Statistics and Related Information Regarding Fires in On-Campus Residential Facilities

Residential Facilities	Total Fires in Each Building	Fire Number	Cause of Fire	Number of Injuries that Required Treatment at a Medical Facility	Number of Deaths Related to a Fire	Value of Property Damage Caused by Fire
744-50 East 41st St. 41st St Townhouses	0	0	N/A	0	0	N/A
4008 Wayne St. Wayne Apartments	0	0	N/A	0	0	N/A
745 East 40th St. Wayne Apartments	0	0	N/A	0	0	N/A
742 East 40th St. Wayne Apartments	0	0	N/A	0	0	N/A
501 East 38th St Mercy Suites 100-200-300	0	0	N/A	0	0	N/A
501 East 38th St Duvall Apts	0	0	N/A	0	0	N/A
501 East 38th St Warde Townhouses	0	0	N/A	0	0	N/A
501 East 38th St Baldwin Hall	0	0	N/A	0	0	N/A
501 East 38th St McAuley Hall	0	0	N/A	0	0	N/A
501 East 38th St Warde Hall	0	0	N/A	0	0	N/A
501 East 38th St Ryan Hall	0	0	N/A	0	0	N/A
444 E Grandview Blvd Grandview Hall	0	0	N/A	0	0	N/A

*NOTE: Due to a change in the Clery Act definition of "reasonably contiguous" outlined within the *2016 Campus Safety and Security Handbook,* all University owned or controlled buildings and property within one mile of the University's core campus boundary that were previously considered non-campus have been reclassified starting with CY 2016 to on-campus properties. As such, previously considered non-campus residential facilities that are within one mile of the University's core campus boundary are now considered on-campus properties and have been added to the Fire Safety Data and Statistics and Fire Safety Policy Requirements; as outlined by 2008 Higher Education Opportunity Act or HEOA.

ANNUAL FIRE SAFETY REPORT/FIRE STATISTICS (On-Campus)
CALENDAR YEAR 2019

Statistics and Related Information Regarding Fires in On-Campus Residential Facilities

Residential Facilities	Total Fires in Each Building	Fire Number	Cause of Fire	Number of Injuries that Required Treatment at a Medical Facility	Number of Deaths Related to a Fire	Value of Property Damage Caused by Fire
611-13 East 38th St. Briggs Apartments	0	0	N/A	0	0	N/A
3808-10 Briggs Av Briggs Apartments.	0	0	N/A	0	0	N/A
3828-30 Briggs Av. Briggs Apartments	0	0	N/A	0	0	N/A
3908-10 Briggs Av. Briggs Apartments	0	0	N/A	0	0	N/A
3924-26 Briggs Av. Briggs Apartments	0	0	N/A	0	0	N/A
3807-09 Briggs Av. Briggs Apartments	0	0	N/A	0	0	N/A
3827-29 Briggs Av. Briggs Apartments	0	0	N/A	0	0	N/A
3907-09 Briggs Av. Briggs Apartments	0	0	N/A	0	0	N/A
3808-10 Lewis Av. Lewis Apartments	0	0	N/A	0	0	N/A
3807-09 Lewis Av. Lewis Apartments	0	0	N/A	0	0	N/A
3827-29 Lewis Av. Lewis Apartments	0	0	N/A	0	0	N/A
3907-09 Lewis Av. Lewis Apartments	0	0	N/A	0	0	N/A
3923-25 Lewis Av. Lewis Apartments	0	0	N/A	0	0	N/A
3937-43 Lewis Av. Lewis Townhouses	0	0	N/A	0	0	N/A
3947-53 Lewis Av. Lewis Townhouses	1	1	Unintentional (Cooking) -- Oven Fire	0	0	N/A
4009-17 Lewis Av. Lewis Townhouses	0	0	N/A	0	0	$100-$999
730-40 East 41st St. 41st St Townhouses	0	0	N/A	0	0	N/A
744-50 East 41st St. 41st St Townhouses	0	0	N/A	0	0	N/A
4008 Wayne St. Wayne Apartments	0	0	N/A	0	0	N/A

ANNUAL FIRE SAFETY REPORT/FIRE STATISTICS (On-Campus)
CALENDAR YEAR 2019 - Continued

Statistics and Related Information Regarding Fires in On-Campus Residential Facilities

Residential Facilities	Total Fires in Each Building	Fire Number	Cause of Fire	Number of Injuries that Required Treatment at a Medical Facility	Number of Deaths Related to a Fire	Value of Property Damage Caused by Fire
745 East 40th St. Wayne Apartments	0	0	N/A	0	0	N/A
742 East 40th St. Wayne Apartments	0	0	N/A	0	0	N/A
501 East 38th St Mercy Suites 100-200-300	0	0	N/A	0	0	N/A
501 East 38th St Duvall Apartments	0	0	N/A	0	0	N/A
501 East 38th St Warde Townhouses	0	0	N/A	0	0	N/A
501 East 38th St. McAuley Hall	0	0	N/A	0	0	N/A
501 East 38th St. Baldwin Hall	0	0	N/A	0	0	N/A
501 East 38th St. Warde Hall	0	0	N/A	0	0	N/A
501 East 38th St. Ryan Hall	0	0	N/A	0	0	N/A
444 E Grandview Blvd Grandview Hall	0	0	N/A	0	0	N/A

*NOTE: Due to a change in the Clery Act definition of "reasonably contiguous" outlined within the *2016 Campus Safety and Security Handbook,* all University owned or controlled buildings and property within one mile of the University's core campus boundary that were previously considered non-campus have been reclassified starting with CY 2016 to on-campus properties. As such, previously considered non-campus residential facilities that are within one mile of the University's core campus boundary are now considered on-campus properties and have been added to the Fire Safety Data and Statistics and Fire Safety Policy Requirements; as outlined by 2008 Higher Education Opportunity Act or HEOA.

CLERY-DESIGNATED CRIME DEFINITIONS

Mercyhurst University is required to report crime statistics as defined by the Clery Act for the following crimes if the crimes are reported and occur in geographic locations as defined above.

Unfounded Crime Reports – According to Uniform Crime Report (UCR) guidelines, a reported offense can be cleared as unfounded by a sworn law enforcement authority "if the investigation shows that no offense occurred nor was attempted." These cases thus remain as official crime reports and are included in the departmental statistics; however, they are explicitly labeled as "unfounded" cases within UCR reports on the various index crimes.
According to UCR guidelines, the statistics on unfounded cases should include crime reports that are either: False or Baseless.

Murder/Non-Negligent Manslaughter – The killing of one human being by another.

Manslaughter by Negligence – The killing of another person through gross negligence.

The Federal definition (from VAWA) of Sexual Assault: An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting (UCR) program. Per the National Incident-Based Reporting System User Manual from the FBI UCR Program, a sex offense is "any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent."

- Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This definition includes any gender of victim or perpetrator.
- Fondling: The touching of the private parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- Incest: Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- Statutory Rape: Non-forcible sexual intercourse with a person who is under the statutory age of consent.

Robbery – The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

Aggravated Assault – An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm.

Burglary – The unlawful entry of a structure to commit a felony or a theft.

Motor Vehicle Theft – The theft or attempted theft of a vehicle.

Arson – Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, or personal property of another.

Domestic Violence, Dating Violence, and Stalking additions from the 2014 VAWA Negotiated Rulemaking Final Consensus Language:

The Federal definition (from VAWA) of Domestic Violence: a felony or misdemeanor crime of violence committed:

- by a current or former spouse or intimate partner of the victim;
- by a person with whom the victim shares a child in common;

- by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred

The Federal definition (from VAWA) of Dating Violence: the term "dating violence" means violence committed by a person:

- who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- The existence of such a relationship shall be determined based on the reporting party's statement with consideration of:
    - the length of the relationship;
    - the type of relationship;
    - the frequency of interaction between the persons involved in the relationship
- Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse
- Dating violence does not include acts covered under the definition of domestic violence

The Federal definition (from VAWA) of Stalking: engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- fear for the person's safety or the safety of others; or
- suffer substantial emotional distress For the purposes of this definition:
- Course of conduct means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim
- Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling

Hate Crimes – any of the above offenses, and any other crime involving bodily injury, reported to local police agencies or campus security authority that manifest evidence that the victim was intentionally selected because of the perpetrator's bias, or the perpetrator perceived the person to be in one of the protected group categories. Additionally, on August 14, 2008, the Clery Act was amended to include larceny/simple assault, intimidation, and destruction/damage/vandalism (except arson) as reportable categories of hate crimes. These new reporting categories are only reported if motivated by bias as determined by one of the designated bias categories. The types of bias categories include: race, gender, religion, sexual orientation, ethnicity, national origin, gender identity, and disability.

Hate Crime Definitions:

To ensure uniformity in reporting nationwide, the following definitions have been adopted for use in hate crime reporting:

Bias – a preformed negative opinion or attitude toward a group of persons based on their race, religion, disability, sexual orientation, or ethnicity/national origin.

Bias Crime – a criminal offense committed against a person or property that is motivated, in whole or in part, by the offender's bias against a race, religion, disability, sexual orientation, or ethnicity/national origin; also known as Hate Crime.

Note: Even if the offender was mistaken in their perception that the victim was a member of the group the offender was acting against, the offense is still a bias crime because the offender was motivated by bias against the group.

UNIFORM CRIME REPORTING (UCR)/NATIONAL INCIDENT-BASED REPORTING SYSTEM (NIBRS) DEFINITIONS

Under the Pennsylvania Uniform Crime Reporting Act, Mercyhurst University is required to report crime statistics as defined by the Uniform Crime Reporting Program for the following crimes if the crimes are reported and occur on the property owned, controlled, leased, recognized or operated by the University.

The Uniform Crime Reporting (UCR) program divides offenses into two groups, Part I and Part II crimes. Each month the Mercyhurst University police Department (MUDP) submits information on the number of Part I and Part II offenses known to DPS, and those offenses cleared by arrest or exceptional means, to the Pennsylvania State Police.

The Part I Offenses are:

Criminal Homicide –

- Murder and Non-negligent manslaughter: the willful (non-negligent) killing of one human being by another. Deaths caused by negligence, attempts to kill, assaults to kill, suicides, and accidental deaths are excluded. The program classifies justifiable homicides separately and limits the definition to:
    - the killing of a felon by a law enforcement officer in the line of duty; or
    - the killing of a felon, during the commission of a felony, by a private citizen.
- Manslaughter by negligence: the killing of another person through gross negligence. Traffic fatalities are excluded.

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 victim. Statutory offenses (no force used —victim under age of consent) are excluded.

Robbery – The taking or attempted taking of anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

Aggravated Assault – An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. Simple assaults are excluded.

Burglary (Breaking or Entering) – The unlawful entry of a structure to commit a felony or a theft. Attempted forcible entry is included.

Larceny - Theft (except Motor Vehicle Theft) – The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. Examples are thefts of bicycles or automobile accessories, shoplifting, pocket-picking, or the stealing of any property or article that is not taken by force and violence or by fraud. Attempted larcenies are included. Embezzlement, confidence games, forgery, worthless checks, etc., are excluded.

Motor Vehicle Theft – The theft or attempted theft of a motor vehicle. A motor vehicle is self-propelled and runs on land surface and not on rails. Motorboats, construction equipment, airplanes, and farming equipment are specifically excluded from this category.

Arson – Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

The Part II Offenses are:

Other Assaults (Simple) – Assaults and attempted assaults which are not of an aggravated nature and do not result in serious injury to the victim. Includes subjecting a person to unlawful physical attack or in fear of bodily harm by word or action.

Forgery and Counterfeiting – The altering, copying, or imitating of something, without authority or right, with the intent to deceive or defraud by passing the copy or thing altered or imitated as that which is original or genuine; or the selling, buying, or possession of an altered, copied, or imitated thing with the intent to deceive or defraud. Attempts are included.

Fraud – The intentional perversion of the truth for the purpose of inducing another person or other entity in reliance upon it to part with something of value or to surrender a legal right. Fraudulent conversion and obtaining of money or property by false pretenses, confidence games and bad checks, except forgeries and counterfeiting, are included.

Embezzlement – The unlawful misappropriation or misapplication by an offender to his/her own use or purpose of money, property, or some other thing of value entrusted to his/her care, custody, or control.

Stolen Property; Buying, Receiving, Possessing – Buying, receiving, possessing, selling, concealing, or transporting any property with the knowledge that it has been unlawfully taken, as by burglary, embezzlement, fraud, larceny, robbery, etc. Attempts are included.

Vandalism – To willfully or maliciously destroy, injure, disfigure, or deface any public or private property, real or personal, without the consent of the owner or person having custody or control by cutting, tearing, breaking, marking, painting, drawing, covering with filth, or any other such means as may be specified by local law. Attempts are included.

Weapons; Carrying, Possessing, etc. – The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices, or other deadly weapons. Attempts are included.

Prostitution and Commercialized Vice – The unlawful promotion of or participation in sexual activities for profit, including attempts.

Sex offenses (except forcible rape, prostitution, and commercialized vice) —Statutory rape, offenses against chastity, common decency, morals, and the like. Includes the offense of Fondling. Attempts are included.

Drug Abuse Violations – The violation of laws prohibiting the production, distribution, and/or use of certain controlled substances. The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation, or importation of any controlled drug or narcotic substance. Arrests for violations of state and local laws, specifically those relating to the unlawful possession, sale, use, growing, manufacturing, and making of narcotic drugs. The following drug categories are specified: opium or cocaine and their derivatives (morphine, heroin, codeine); marijuana; synthetic narcotics —manufactured narcotics that can cause true addiction (Demerol, Methadone); and dangerous non-narcotic drugs (Barbiturates, Benzedrine).

Gambling – To unlawfully bet or wager money or something else of value; assist, promote, or operate a game of chance for money or some other stake; possess or transmit wagering information; manufacture, sell, purchase, possess, or transport gambling equipment, devices, or goods; or tamper with the outcome of a sporting event or contest to gain a gambling advantage.

Offenses Against the Family and Children – Unlawful nonviolent acts by a family member (or legal guardian) that threaten the physical, mental, or economic well-being or morals of another family member and that are not classifiable as other offenses, such as Assault or Sex Offenses. Attempts are included.

Driving Under the Influence – Driving or operating a motor vehicle or common carrier while mentally or physically impaired as the result of consuming an alcoholic beverage or using a drug or narcotic.

Liquor Laws – The violation of state or local laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, or use of alcoholic beverages, not including driving under the influence and drunkenness. Federal violations are excluded.

Drunkenness – To drink alcoholic beverages to the extent that one's mental faculties and physical coordination are substantially impaired. Excludes driving under the influence.

Disorderly Conduct – Any behavior that tends to disturb the public peace or decorum, scandalizes the community, or shocks the public sense of morality.

Vagrancy – The violation of a court order, regulation, ordinance, or law requiring the withdrawal of persons from the streets or other specified areas; prohibiting persons from remaining in an area or place in an idle or aimless manner; or prohibiting persons from going from place to place without visible means of support.

All Other Offenses – All violations of state or local laws not specifically identified as Part I or Part II offenses, except traffic violations.

This information is provided as a part of Mercyhurst University's continuing commitment to safety and security on campus in compliance with the Pennsylvania Uniform Crime Reporting Act and the Jeanne Clery Act. Concerns, questions, or complaints related to this document or the applicable statutes should be directed to the Mercyhurst University Chief of Police either by mail at Mercyhurst University, 501 E 38th St. McAuley Hall Lower Level, Erie, PA 16546; email at: dfuhrmann@mercyhurst.edu; or by telephone at (814) 824-2104.