2022

MERCYHURST UNIVERSITY

North East Campus

2022-2023 Academic Year

Annual Security and Fire Safety Report

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

The Mercyhurst University North East Campus consists of 13 buildings on about 84 acres of land in North East, Pa. The campus is bordered to the north by Sunset Drive, to the south by West Division Street, to the east by Lake Street, and to the west by North Pearl Street. The North East campus also includes several outbuildings to the northwest of the university. A Public Safety Institute and Licensed Practical Nursing building is located at 5999 Station Road and a swimming pool building is located at 43 North Lake Street. On December 24, 2021, the North East campus closed and was consolidated into the Erie campus.

There are about 0 students, out of a total of more than 266, living on the Mercyhurst North East campus, and there are approximately 33 full-time and 3 part-time employees.

State and Federal Campus Security Acts

In late 1987, the Pennsylvania House of Representatives enacted House Bill 1900, which was signed into law on May 26, 1988 as Act 73, "The College and University Security Information Act." In general, Act 73 requires each college and university in Pennsylvania to compile information regarding campus crime and to publish information concerning campus security policies, procedures, and programs. This state law also requires campuses to report crime statistics to the Pennsylvania State Police in accordance with the Uniform Crime Reporting Act, and then to make the reported statistical information available to those who request it. In 1990, the Federal Statute, PL 101-542, known as "The Student Right to Know and Campus Security Act," now known as the "Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act," was enacted, and has generally the same requirements as the state law.

The federal act, however, requires that crime statistical information be provided to the United States Department of Education on an annual basis. All students and employees, and prospective students and employees, must be advised that this information is available, and university security policies and procedures must be published and provided to all students and employees on an annual basis.

Mercyhurst University recognizes its responsibility to comply with state and federal law. Questions and/or complaints regarding compliance with these acts may be addressed to the Department of Police and Safety, Chief of Police, Mercyhurst University, Erie PA, 16546, or by calling Chief D.J. Fuhrmann at (814) 824-2104 (email: dfuhrmann@mercyhurst.edu)

Mercyhurst North East Campus: Police and Safety Department

The Mercyhurst University Security Department was founded in 1971, and in August 1998 became the Department of Police and Safety. Today, the department remains committed to its original mission of providing a safe and secure environment for the entire Mercyhurst University community. The Mercyhurst University Department of Police and Safety is comprised of A Chief of Police, Patrol Lieutenant, Patrol Sergeant with 7 full-time, 2 part-time officers.

Communications officers are assigned to the camera, emergency alarm center, and communications center located in the department's Police and Safety 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.

The Chief, Lieutenant, Sergeant, and Police Officers are Act 120 trained, or have the equivalent training required by state law to be certified as sworn police officers. These 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. A close liaison is maintained with the North East Borough Police and the Pennsylvania State Police.

In major incidents or investigations, the North East Borough Police and the Pennsylvania State Police will assist the Mercyhurst University Police and Safety Department. If requested, these departments will assume entire responsibility for the incident and/or investigation

Weapons are not permitted on the Mercyhurst University campus. Mercyhurst University Police officers are armed, but may carry non-lethal weapons, such as Taser, pepper spray or expandable batons if they are properly trained in their use.

The Mercyhurst University Department of Police and Safety 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, federal laws and Mercyhurst University rules and regulations, and at the same time strives to protect the rights of each and every individual.

Reporting Crime

Any person who is the victim of a crime, either on or off campus, is encouraged to report the incident to the appropriate law enforcement agency. Victims and witnesses are encouraged to report crimes on a voluntary, confidential basis. Campus pastoral counselors and campus professional counselors, when acting as such, are not considered to be a campus security authority and are not required to report crimes for inclusion into the annual disclosure of crime statistics. However, they are encouraged if and when they deem it appropriate to inform persons being counseled of the procedures to report crimes on a voluntary basis for inclusion into the annual crime statistics.

1. The university reports crimes occurring on campus to state and federal authorities as required by law. The Mercyhurst University Department of Police and Safety can be reached 24 hours a day, 365 days a year at (814) 824-3911. Additionally, the Police and Safety Department can be reached at (814) 725-6103. The department Chief of Police DJ Fuhrmann can be reached by calling (814) 824-2104. The department, Chief Fuhrmann or his designee should be contacted to report crimes for statistical inclusion, and/or to initiate timely warnings pursuant to crimes that have occurred. Alternatively, crimes may be reported to any university staff member or official.

During power failures or emergencies, the Police and Safety communication Center can also be reached by dialing the Mercyhurst University Police and Safety Department Erie Campus cell phone number at (814) 881-7359. The on-duty communications officer will handle requests for assistance or information and will dispatch a police officer to respond when necessary and/or requested. The address and telephone numbers for the Pa. State Police and North East Borough police departments that respond to incidents and requests for assistance at the Mercyhurst University North East campus are:

Pennsylvania State Police
4320 Iroquois Avenue
PO Box 10607
Erie, PA 16514
(814) 898-1641

North East Borough Police Department
58 East Main Street
North East, PA 16428
(814) 725-4407
(814) 725-2807 (non-emergency)

The Pennsylvania State Police and North East Borough Police Department can be contacted for emergency purposes only by dialing **911**

Confidential reporting procedures

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 and Safety 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 regarding 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 crime′s statistics for the university.

Additionally, an alternative way to report crime anonymously via the Internet is available by going to *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* It can be filled out and submitted electronically to Chief Fuhrmann.

Monitoring Criminal Activity At Off Campus Sites

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.

Policies

Drug Policy

Municipal ordinances, state, and federal law govern all matters relating to drugs. It is the university's policy as well to adhere to all municipal, state, and federal laws, including those governing the use of drugs. Mercyhurst University does not condone the medically unsupervised use, possession, sale, manufacture, or distribution of illegal drugs or drug paraphernalia.

When such activity occurs on campus, the university shall initiate appropriate measures, which may include disciplinary action. When such activity occurs off campus, the university may consider disciplinary action if the university determines that the activity has a substantial adverse effect upon the university or members of the university community. Violators will be subject to penalties, which may include separation from the university. In addition, the university may report such matters to the appropriate enforcement agencies for criminal disposition.

1. Residents are responsible and accountable for the behavior of their guests and will be sanctioned if their guests violate the drug policy.

2. Any violation of the drug policy will result in the confiscation of any related paraphernalia.

Alcohol Policy

In keeping with the university mission statement that "Mercyhurst is a Catholic institution… dedicated to the lifelong development of the whole person," we affirm the posture of the university to uphold the legal requirements of the Commonwealth of Pennsylvania in regard to the possession, transportation, consumption, and distribution of alcoholic beverages. Furthermore, we recognize our moral obligation to ensure the wellbeing of each member of the Mercyhurst community by taking whatever steps necessary to discourage and prevent the wanton, reckless and illegal consumption of alcohol that may render short term and/or long-term harm to the consumer, or to a neighbor, and to the physical premises of this campus. In order to accomplish this goal, the following guidelines and rules and regulations are set forth:

LEGAL REQUIREMENTS

As students living in Pennsylvania and as members of the Mercyhurst community, students have a responsibility to know and obey the law, including the following:

Section 6308 of the Pennsylvania Crimes Code states, "A person commits a summary offense if he, being less than 21 years of age, attempts to purchase, purchases, consumes, possesses or knowingly and intentionally transports and liquor or malt or brewed beverages, as defined in section 6310.6."

Section 6310.1 of the Pennsylvania Crimes Code states: "…a person commits a misdemeanor of the third degree if he intentionally and knowingly sells or intentionally and knowingly furnishes, or purchases with the intent to sell or furnish, any liquor or malt or brewed beverages to a person who is less than 21 years of age."

Section 493 of the Pennsylvania Liquor Code states, "It shall be unlawful for any . . . person to sell, furnish or give away liquor or malt or brewed beverages, or to permit any liquor or malt or brewed beverages to be sold, furnished or given, to any person visibly intoxicated, . . . or to any minor, or to habitual drunkards, or persons of known intemperance habits."

The Supreme Court of Pennsylvania stated in the case of Congini v. Portersville Valve Co., 504 Pa. 157, 470 a. 2d. 515 (1983) that, "social hosts are negligent per se in serving alcohol to the point of intoxication to a person less than 21 years of age, and they can be held liable for injuries proximately resulting from the minor's intoxication." That liability can extend to include claims for injuries to the intoxicated minor.

Any student found to be responsible for violating the Conduct Code may receive one or more of a variety of sanctions tailored to the specific violation(s). The sanctions listed in the Student Handbook are presumptive. Individual mitigating circumstances (seeking assistance for a fellow student in distress), as well as aggravating factors (including but not limited to misconduct by the student, or failure to comply with previously imposed sanctions) may be considered when determining the level and scope of the sanction(s).

UNIVERSITY REQUIREMENTS

Municipal ordinances, the Pennsylvania Liquor Code and related state statutes, and federal law govern all matters relating to alcohol. **The drinking age in the state is 21 years or older. No person under the age of 21 is permitted to consume, transport, or possess any alcoholic beverages.** As a member of the student body, one is required to observe municipal, state, and federal laws. In an effort to promote responsible use of alcohol, Mercyhurst University adopts additional conduct standards for situations involving alcohol. Any activity involving alcohol will be governed by the following, and violations of the alcohol policy will result in appropriate sanctions.

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 college 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 defines the crimes of domestic violence, dating violence, sexual assault and stalking as follows:

- **Domestic Violence**:
  i. A Felony or misdemeanor crime of violence committed—
    A) By a current or former spouse or intimate partner of the victim;
    B) By a person with whom the victim shares a child in common;
    C) By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
    D) 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
    E) 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.
  ii. 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:
  i. 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
  ii. 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.

i. 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.

ii. For the purposes of this definition—

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

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

iii. 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." o **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. o **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.

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

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

- **Stalking**:

i. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—

A) Fear for the person's safety or the safety of others; or

B) Suffer substantial emotional distress.

ii. For the purposes of this definition—

A) *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.

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

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

iii. 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.

<u>Jurisdictional Definitions of Domestic Violence, Dating Violence, Sexual Assault, and Stalking</u>

- **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 underage 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 preventingresistance;

(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: Consent to engage in sexual activity must exist from beginning to end of each instance of sexual activity. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage in, and continue to engage in, a specific sexual activity.

Consent must be informed and voluntary. To give Consent, a person must be awake, of legal age, and have the capacity to reasonably understand the nature of their actions. Individuals who are physically or mentally incapacitated cannot give Consent. Some indicators that an individual is incapacitated due to intoxication may include, but are not limited to, vomiting, unresponsiveness, inability to communicate coherently, inability to dress/undress without assistance, inability to walk without assistance, slurred speech, loss of coordination, or inability to perform other physical or cognitive tasks without assistance. Silence, without actions evidencing permission, does not demonstrate Consent. Where force or coercion is alleged, the absence of resistance does not demonstrate Consent. The responsibility of obtaining Consent rests with the person initiating sexual activity.

Consent to engage in sexual activity may be withdrawn by either person at any time. A previous or current dating or sexual relationship, by itself, is not enough to constitute Consent. Once withdrawal of Consent has been expressed, the sexual activity must cease. Consent is automatically withdrawn by a person who is no longer capable of giving Consent (due to falling asleep or passing out into a state of unconsciousness, for example).

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.

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'tknow.
- 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:

A. 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

B. 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:

A. Clearly communicate that the institution prohibits the crimes of domestic violence, dating violence, sexual assault, and stalking (as defined by the Clery Act);

B. Provide the definitions of domestic violence, dating violence, sexual assault, and stalking according to any applicable jurisdictional definitions of these terms;

C. 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;

D. 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 tointervene;

E. 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;

F. Provide an overview of information contained in the Annual Security and Fire Safety Report in compliance with the Clery Act;

G. Provide information regarding:

1. 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);

2. 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);

3. 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); and

4. 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);

5. 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 or academic programs, 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 and awareness month, which includes participation in an annual community "Take Back the Night" event; Step Up! 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 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 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 North East Police Department may also be reached directly by calling (814) 725-4407 or The Pennsylvania State Police at (814) 898-1641 during normal business hours, or 911 during off hours or in emergency situations; or in person at the North East Police Department located at 58 E Main St, North East PA 16428 or P.S.P. at 4320 Iroquois Ave Erie, PA 16514.

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 college 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 (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 (office: 311 Egan, Erie Campus phone: 814-824-2362) 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 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 andoptions 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 hearingis 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 Resources 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 Director. 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 order may include additional restrictions and terms.

If the University receives a report that such an institutional No Contact order 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 order.

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.

Employees/Faculty: Contact the Office of Human Resources and/or Provost Office (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, Erie campus 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: 814-824-3650 **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: 814-824-3911 Emergency Pho : 814-824-3911	Non-Emergency Phone: 814-824-3911 E Pho : 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://lakersmercyhurst.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 the Health and Counseling center or to the campus Chaplain to submit an anonymous report. The amount of details provided in an anonymous report will determine University's ability to investigate or respond.
OFF CAMPUS		
Counseling/ Mental Health	Employee Assistance Program (EAP) General Assistance: 866-238-6232(TTY 711) **Confidential Resource*	
Health Services	UPMC Hamot, 201 State Street – Erie, PA 16550 (814) 877-6000 Saint Vincent, 232 W. 25th St – Erie, PA 16544 (814) 898-2576	UPMC Hamot, 201 State Street – Erie, PA 16550 (814) 877-6000 Saint Vincent, 232 W. 25th St – Erie, PA 16544 (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 16512 (814) 454-8161 or (814) 455-1774	Crime Victim Center, 125 West 18th Street - Erie, PA 16501 (814) 455-9414 or (800) 352-7273 SafeNet, PO Box 1436, Erie, PA 16512 (814) 454-8161 or (814) 455-1774
Legal Assistance	MidPenn Legal Services (Gettysburg) Phone: 717-334-7624	MidPenn Legal Services (Gettysburg) Phone: 717-334-7624
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

Adjudication of Violations:

The University's disciplinary process includes a prompt, fair, and impartial investigation and resolution process. In all instances, the process will be conducted in a manner that is consistent with the institution's policy and that is transparent to the accuser and the accused. Usually, the resolution of domestic violence, dating violence, sexual assault, and stalking complaints are completed within 60 days of the report. However, each proceeding allows for extensions of timeframes for good cause, with written notice to the accuser and the accused of the delay and the reason for the delay. University officials involved in the investigation or adjudication of domestic violence, dating violence, sexual assault, and stalking complaints are trained annually on the issues related to domestic violence, dating violence, sexual assault, and stalking, as well as how to conduct an investigation and hearing process that protects

the safety of the victim and promotes accountability. Furthermore, each policy provides that:

1. The accuser and the accused will have timely notice for meetings at which the accuser or accused, or both, may be present;
2. The accuser, the accused, and appropriate officials will have timely and equal access to any information that will be used during formal and informal disciplinary meeting and hearings;
3. The institutional disciplinary procedures will not be conducted by officials who have a conflict of interest or bias for or against the accuser or the accused;
4. The accuser and the accused will have the same opportunities to have others present during any institutional disciplinary proceeding. The accuser and the accused each have the opportunity to be advised by an advisor of their choice at any stage of the process and to be accompanied by that advisor to any related meeting or proceeding. The University will not limit the choice of advisor or presence for either the accuser or the accused in any meeting or institutional disciplinary proceeding. An Advisor is someone who acts as an advisor to the Complainant or Respondent involved in an investigation or disciplinary proceeding under the University's policies. The Advisor is permitted to be a part of any meetings their student may have. University employees who provide confidential support services (Counseling/Health Services staff and pastoral counselors) or have an actual or perceived conflict of interest (the Title IX Director, MUPD Officers, and the Vice president for Student Life, for example) may not serve as Advisors. A student or employee should select as an advisor a person whose schedule allows attendance at the scheduled date and time for any meetings, because delays will not normally be allowed due to the scheduling conflicts of an advisor.
5. The Advisor may not speak aloud during meetings involving the student and an investigator/adjudicator but may confer quietly or by means of written notes with their advisee. Student Conduct keeps a list of trained Advisors. Although the Parties are not required to select a trained Advisor, because knowledge of the disciplinary process is important to the Advisor's role, it is highly recommended that they do so. The Complainant and Respondent are not obligated to accept the counsel of an Advisor.
6. The accuser and the accused will be notified simultaneously, in writing, of any initial, interim, and final decision of any disciplinary proceeding; and
7. Where an appeal or grievance is permitted under the applicable policy, the accuser and the accused will be notified simultaneously in writing of the procedures for the accused and the victim to appeal the result of the institutional disciplinary proceeding. When an appeal or grievance is filed, the accuser and the accused will be notified simultaneously in writing of any change to the result prior to the time that it becomes final, as well as of the final result once the appeal is resolved.

If the Victim Does Not Wish to Pursue Resolution:

In all reported cases of sexual misconduct, the University will conduct a fact-finding investigation to the best of its ability. In cases where the Victim wishes to become a Complainant, this investigative report is provided to the Title IX Director or their designee for a threshold analysis.

In cases where the Victim does not wish to become a Complainant, the University has 2 (two) options:

1. The University may attempt to resolve the complaint in a manner consistent with the Victim's request. This may include holding the report for action at a later date.
2. The University may pursue a judicial hearing against the Respondent named in the investigation. Under these circumstances, the University would take into consideration the nature of the assault, the safety of the Victim and the campus community, as well as the previous disciplinary history and previous allegations of sexual misconduct.

Whether or not criminal charges are filed, the University or a person may file a complaint under the sexual misconduct and grievance procedures outlined on the following pages, depending upon the status of the accused (student or employee).

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, (published summer 2020) 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 at https://ocrcas.ed.gov/contact-ocr.

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:
The conduct is alleged to have occurred on or after August 14, 2020;

1. The alleged conduct, if true, would constitute sexual harassment by a student as defined in this policy.
2. 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 it 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.

<u>Making a Report Regarding Sexual Harassment to the Institution</u>

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/Director of Equal Opportunity Programs
311 Egan Hall, Erie Campus814-824-2362

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

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

Supportive Measures

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.

- *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*

Supportive measures are non-disciplinary and non-punitive

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.
    i. 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. In other words, a prior statement would not include a document, audio recording, audiovisual reading, and digital media, including but not limited to text messages, emails, and social media postings, that constitute the conduct alleged to have been the act of sexual harassment under the formal complaint.

- Mercyhurst will not threaten, coerce, intimidate or discriminate against the party in an attempt to secure the party's participation.
- If a party does not submit to cross-examination, the decision-maker cannot rely on any prior statements made by that party in reaching a determination regarding responsibility, but may reach a determination regarding responsibility based on evidence that does not constitute a "statement" by that party.
- 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.
- If a witness does not submit to cross-examination, as described below, the decision-maker cannot rely on any statements made by that witness in reaching a determination regarding responsibility, including any statement relayed by the absent witness to a witness or party who testifies at the live hearing.
- 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 determines 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:

a. Identification of the allegations potentially constituting sexual harassment;
b. 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;
c. Findings of fact supporting the determination;
d. Conclusions regarding which section of the Conduct Code if any, the respondent has or has not violated.
e. For each allegation:
    i. A statement of, and rationale for, a determination regarding responsibility;
    ii. A statement of, and rationale for, any disciplinary sanctions the institution imposes on the respondent; and
    iii. 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
f. 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.
https://www.mercyhurst.edu/sites/default/files/2020-2021_grievance_form.pdf

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

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 at https://ocrcas.ed.gov/contact-ocr.

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:

The conduct is alleged to have occurred on or after August 14, 2020;

1. The alleged conduct, if true, would constitute sexual harassment by a student as defined in this policy.
2. 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:

6. 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;

7. 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;

8. 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.

9. 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.

10. 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/Director of Equal Opportunity Programs
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

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

Supportive Measures

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.

<u>Investigation</u>

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.
    i. 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. In other words, a prior statement would not include a document, audio recording, audiovisual reading, and digital media, including but not limited to text messages, emails, and social media postings, that constitute the conduct alleged to have been the act of sexual harassment under the formal complaint.
- Mercyhurst will not threaten, coerce, intimidate or discriminate against the party in an attempt to secure the party's participation.
- If a party does not submit to cross-examination, the decision-maker cannot rely on any prior statements made by that party in reaching a determination regarding responsibility, but may reach a determination regarding responsibility based on evidence that does not constitute a "statement" by that party.

- 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.

- If a witness does not submit to cross-examination, as described below, the decision-maker cannot rely on any statements made by that witness in reaching a determination regarding responsibility, including any statement relayed by the absent witness to a witness or party who testifies at the live hearing.
- 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:

g. Identification of the allegations potentially constituting sexual harassment;
h. 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;
i. Findings of fact supporting the determination;
j. Conclusions regarding which section of the Conduct Code if any, the respondent has or has not violated.
k. For each allegation:
    i. A statement of, and rationale for, a determination regarding responsibility;

ii. A statement of, and rationale for, any disciplinary sanctions the institution imposes on the respondent; and
iii. 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

l. 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.
https://www.mercyhurst.edu/sites/default/files/2020-2021_grievance_form.pdf

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:

1. Abusive language or behavior.
2. Failure to meet established departmental expectations or standards.
3. Violation of safety rules.
4. Failure to notify University of absence.
5. Loitering or unauthorized time away from work area.
6. Posting or removing notices, signs, or writing in any form on bulletin boards or University property without specific approval.
7. Failure to follow supervisor's instructions.
8. Extending lunch or breaks beyond authorized time.
9. 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 workassigned.
- 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, orvisitors.
- Immoral or indecent behavior.
- Stealing or unauthorized possession of University property or the propertyof 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 dangerousweapons 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:

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.

Registered Sex Offenders

The Jacob Wetterling Crimes against Children and Sexually Violent Offender Registration Act determined the requirements for sexual offender registration and community notification. In accordance with this Act information concerning registered sex offenders may be obtained by going to the Web site:

www.pameganslaw.state.pa.us

An e-mail request may then be submitted to the Pennsylvania State Police for information regarding registered sex offenders.

Emergency Response and Evacuation Procedures

Upon confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus, the Director of Public Relations will immediately notify the campus community at the direction of the Emergency Response Team. The larger community will be notified by the Director ofPublic Relations at the direction of the Emergency Response Team as well. The Mercyhurst University Emergency Response Team will, without delay, and taking into account the safety of the community, determine the content of the notification and initiate the notification system which can include announcements from the Director of Public Relations as well as campus emails and the E2 cell phone notification system. Announcements can also be made on the Mercyhurst University Website. This notification will take place unless the notification will, in the professional judgment of responsible authorities, compromise efforts to assist victims or to contain, respond to, or otherwise mitigate the emergency.

The emergency will be evaluated by the correct members of the Emergency Response Team. The correct emergency level will be assigned. If a Level I or Level II emergency exists, the members of the Emergency Response Team will determine whom to notify and how. INITIAL EMERGENCY COMMUNICATIONS WILL BE SENT IMMEDIATELY AND CONVEY ONLY THE MOST CRITICAL INFORMATION.

Members of the university community can subscribe to the E2 campus notification system at my.mercyhurst.edu. The subscription can be found in the residence life section of the portal under “Resources” on the left hand column.

The Mercyhurst University Emergency Response Team Members are:

Vice President of Academics
Vice President of Enrollment
Vice President of Students
Human Resources / Administrative Services
Chief of Police and Safety
Lieutenant of Police and Safety

Sergeant of Police and Safety
Director of Protective Services
Director of I.T. Services Director of
Counseling Services
Director of Media Relations
Director of Physical Plant

Emergency Response

Mercyhurst University includes a written plan that addresses the ability of the university to immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students, staff and employees.

The university, without delay, will take into account the safety of the university community and initiate the notification system, respond to, or otherwise mitigate the emergency. The process to accomplish this notification is identified in the university Emergency Response Plan (ERP) and Emergency Response Guide (ERG).

On Campus Notifications:

1. Broadcast email messaging
2. Cellular phone text messaging (E2)
3. Broadcast voicemail messaging
4. Messaging to all classroom "smart" podiums
5. Web Site announcements
6. Other media

The university includes the utilization of in-place building protections and systems for the notification of occupants in the event of an emergency.

- Fire Alarm Systems.
    I. These systems are tested and maintained in accordance with accepted codes and standards.

Emergency notification methods are tested annually to ensure reliability:

- The Emergency Response Plan is periodically reviewed. Updates and changes are completed as necessary.
- The notification processes are tested at least annually.
- Meetings are regularly held throughout the year with key personnel and stakeholders.

Physical testing of systems notification:

- All in-place methods of emergency notification are tested by announced activations.
- Call lists are updated • Response levels reviewed
- Communications tested.
- Operations Center reviewed.
- Planning the exercise
- Developing methods
- Conducting exercise
- Evaluating testing results

Testing Procedure:

- Conduct testing
- Alert the community
- Measure test response
- Evaluate effectiveness
- After action evaluation

The periodic review of the university Emergency Notification methods is a continuing process. Through these evaluations, methods have been developed and included in the university ERP.

Recent results:

- Increase of notification testing to once per semester (2 times annually)
- Planning of physical emergency evacuation exercises (drills).
- Measure response of Emergency Response Team
- Develop special projects to include the expansion of physical notification methods.
- A tabletop exercise has been instituted by the ERP and used to practice an emergency that may occur on campus.

Missing Person Policy

The purpose of this policy is to establish procedures for the university response to reports of missing students, as required by the Higher Education Opportunity Act of 2008.

This policy applies to students who reside in on campus housing.

For purposes of this policy, a student may be considered to be a *"missing person"* if the person's absence is contrary to their usual pattern of behavior and unusual circumstances may have caused the absence. Such circumstances could include, but not be limited to, a report or suspicion that the missing person may be the victim of foul play, has expressed suicidal thoughts, is drug dependent, is in a life-threatening situation, or has been with persons who may endanger the student's welfare.

I. Procedures for designation of emergency contact information

a. Students age 18 and above and emancipated minors:

Students will be given the opportunity during each semester registration process to designate an individual or individuals to be contacted by the university no more than 24 hours after the time that the student is determined to be missing in accordance with the procedures set forth below. A designation will remain in effect until changed or revoked by the student. This designation will be held confidentially over the course of this time. If it is not immediately clear to the Office of Police and Safety if a minor is emancipated, they will be treated as a student who is not an emancipated minor addressed below.

b. Students under the age of 18:

In the event a student who is not emancipated is determined to be missing pursuant to the procedures set forth below, the university is required to notify a custodial parent or guardian and any designated contact person no more than 24 hours after the student is determined to be missing in accordance with the procedures set forth below.

II. Official notification procedures for missing persons

a. Any individual on campus who has information that a resident student may be a missing person must notify the Office of Police and Safety as soon as possible. Note: In order to avoid jurisdictional conflicts when an off-campus and/or commuter student is believed to be missing, the reporting person should immediately notify local law enforcement authorities. The Office of Police and Safety will assist off campus authorities with these investigations as requested.

b. The Office of Police and Safety will gather all essential information about the resident student from the reporting person and from the student's acquaintances (description, clothes last worn, where student might be, who student might be with, vehicle description, information about the physical and mental wellbeing of the student, an up-to date photograph, class schedule, etc.). Appropriate campus staff will be notified to aid in the search for the student.

c. If the above actions are unsuccessful in locating the student or it is immediately apparent that the student is a missing person (e.g., witnessed abduction), the Office of Police and Safety will contact the appropriate local law enforcement agency to report the student as a missing person and the local law enforcement agency will take charge of the investigation.

d. No later than 24 hours after determining that a resident student is missing, the Assistant Vice President of Student Life will notify the emergency contact (for students 18 and over) or the parent/guardian (for students under the age of 18) that the student is believed to be missing.

III. Campus communications about missing students

a. In cases involving missing persons, law enforcement personnel are best situated to provide information to the media that is designed to elicit public assistance in the search for a missing person. Therefore, all communications regarding missing students will be handled by outside law enforcement authorities, who may consult with the university Office of Public Relations. All inquiries to the university regarding missing students, or information provided to any individual at the university about a missing student, shall be referred to the Office of Police and Safety, who shall refer such inquiries and information to law enforcement authorities.

b. Prior to providing the Mercyhurst University community with any information about a missing student, the Office of Public Relations shall consult with the Office of Police and Safety and with local law enforcement authorities to ensure that communications do not hinder the investigation. Security, Safety and Crime Prevention Programs

Safety and security issues are reviewed during resident assistant training, freshman orientation, and other meetings in an effort to foster a trusting and productive relationship with students and staff. Additional programs include:

- A handout is given to each freshman resident student detailing various precautions students can take to lessen their chances of being a victim of a sex offense.

- Resident assistants participate in extensive training from the Crime Victims Center, and the college Counseling Center that addresses these issues and how the resident assistants should respond when dealing with someone they suspect has been a victim of a sexual offense.

- New resident assistants attend an on-going training class through the first term that addresses safety and security issues.

- During mandatory meetings, resident assistants and assistant directors discuss various precautions students should take to lessen their chances of becoming a victim of a sex crime or other offense.

- In March, during Women's History Month, information is provided, and programs offered regarding mental and physical health and well-being. Also, a wellness Fair is held in collaboration with several offices and academic departments to inform students on the seven dimensions of health.

- Throughout the year, workshops are randomly scheduled on subjects such as self-defense, date rape, crisis response, and conflict management.

Drug and Alcohol Abuse Education Programs

During the fall term, each incoming residential and commuting freshman student is required to take *Alcohol-Wise*, an online alcohol prevention course. Freshman students must earn at least a 75 percent on an exam at the end of the course as well as complete a follow up module 30 days following the completion of the exam. In addition to this mandatory course, freshmen take part in alcohol education and positive decision-making sessions during freshman orientation just prior to the start of the academic year. Furthermore, students found in violation of the university's alcohol and drug policies are mandated to complete an alcohol/drug education course. Students take *Alcohol Edu for Sanctions or "Under the influence"* for the first time and less severe alcohol policy violations. In more severe or repeat offenses, students may be required to attend staff taught alcohol courses or participate in personal counseling to promote healthy and responsible decision-making skills.

Timely Warning Policy

The Mercyhurst University Police and Safety Department will issue timely warnings to the university community whenever emergency, safety, and/or other security issues arise that pose a potential threat to students, faculty, or staff, whether the event(s) giving rise to the warnings occur on or off campus. Timely warnings may be made in any of the following ways:

1. A letter may be sent to all employees and students.
2. Information may be published in the university student newspaper (*The Chancellor*).
3. Information may be published in the university newsletter (*The Morning Buzz*).
4. Information may be displayed in the cafeteria and the student union.
5. Information may be posted on the police and safety department home page.
6. Flyers may be posted on university bulletin boards, and/or distributed by assistant housing directors and resident assistants.

Facilities

There are two residence halls located within the North East campus main structure: both are coed. There are 24 townhouses located north of the building proper, and both male and female students may occupy these apartments. Freshmen are assigned to the residence halls and townhouses using information provided by them on their submitted contract, or upon their request for a specific roommate. Upperclassmen select each other in either the residence halls with doubles or singles (on a space-available basis) or in the townhouses. Transfers are assigned according to their preferences for hall or apartment living. Changes may be made at the end of each trimester upon request of the resident and/or at the discretion of the university.

At both male and female residence halls, guests are required to check in at the desk and provide photo identification. Visits by members of the opposite sex are limited to visiting hours. Guests must be 18 years of age, or siblings of the resident, to enter the resident halls. Any visitor under the age of 18 requires parent approval and emergency contact information. All residents are informed of housing and visitation policies via the Student Handbook and during an initial meeting at the beginning of the term. Additional meetings are held and notification is sent on an as-needed basis.

Students granted permission to stay on campus during breaks having made special arrangements with the university are reminded that since there will be fewer students around, they should be especially cautious. Guests may not stay on campus unless registered with the Director of Student Life, and then only for a maximum of three days. Prospective freshmen brought to campus are supervised by the admissions staff and are not permitted in regular student rooms unless they are invited.

High-pressure sodium and metal halide lamps light the campus. Police and Safety Department personnel report safety concerns to the maintenance department either immediately or on a daily basis. A continuous attempt is made to trim and/or eliminate large bushes and other obstructions around entranceways or paths. Safety hazards are corrected when discovered or reported. An emergency call box is located at the outside entrance of the main Mercyhurst North East building. Background checks are conducted on everyone hired by the police and safety and maintenance departments, and all other departments are encouraged to carefully check references and resumes of their applicants.

Access to Campus

Mercyhurst has all of its facilities open during the normal workday. Guests of the university are invited to visit specific areas. During theatrical, athletic, and other special events particular areas are open and/or available at specific times to both the general public and the Mercyhurst University community.

Daily Crime Log

The Police and Safety Department must maintain a daily crime log, which lists all crimes reported to the Police and Safety Department that are committed on campus and on public grounds immediately adjacent to the campus. The crime log must contain information concerning the nature, date, time, and general location of each crime, and the disposition of the incident, if known. The crime log for the Mercyhurst University North East campus is maintained at the Police and Safety office. Mercyhurst University students, faculty, administrators, staff, and the general public can view the crime log any time.

Student Responsibility Regarding Safety and Security

Mercyhurst University is a very safe and secure university. However, with all the available activities on campus, it can be easy to become careless about safety and security issues. The cooperation and involvement of each member of the Mercyhurst University community in campus safety and security is critical. Community members must assume responsibility for their own personal safety and for the security of their own property, as well as the property and assets of the university. Individuals are expected to take necessary precautions to avoid being victimized. Those responsibilities include, but are not limited to:

1. Report any safety and security concerns to the Department of Police and Safety at 725-6103, or the director of administrative services at 725-6399.

2. Apartment and residence hall room doors should always be locked.

3. Strangers should never be allowed into apartments or residence halls. If and when a stranger is found to be wandering in and around student apartments or residence halls, their presence should be immediately reported to the Department of Police and Safety.

4. Students with cars or other vehicles must park them in designated areas as identified by color coded signs and keep them locked at all times. Valuables left in cars should be locked inside the vehicle trunk.

Campus Security Act Definitions

Aggravated Assault:

An unlawful attack by one person upon another for the purpose of inflicting severe 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.

Arson:
To unlawfully and intentionally damage, or attempt to damage, any real or personal property by fire or incendiary device.

Burglary:
The unlawful entry of a structure to commit a crime therein. (On campus this is breaking into an office that is not normally open for public access or breaking into a residence hall bedroom).

Hate Crimes:
Any of the crimes listed, and other crimes involving bodily injury to any person in which the victim is intentionally selected because of the actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability of the victim, that are reported to campus Police and Safety Department, or local police agencies.

Manslaughter:
The killing of another person through negligence.

Motor Vehicle Theft:
The theft or attempted theft of a motor vehicle. (Includes all cases where automobiles are taken by persons not having lawful access even though the vehicles are later abandoned, including joyriding.)

Murder:
The willful (non-negligent) killing of one human being by another.

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.

Sex Offenses, Forcible:
Any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of consent.

Forcible Rape:
The carnal knowledge of a person, forcibly and/or against the person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity (or because of their youth).

Forcible Sodomy:
Oral or anal sexual intercourse with another person, forcibly will; or not forcibly against the person's will where the victim is incapable of giving consent because of their youth or because of their temporary or permanent mental or physical incapacity.

Sexual Assault with an Object:
The use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will where the victim is incapable of giving consent because of their youth or because of their temporary or permanent mental or physical incapacity.

Forcible Fondling:
The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will; or, not forcibly or against the person's will where the victim is incapable of giving consent because of their youth or because of their temporary or permanent mental incapacity.

Theft:
The unlawful taking of property or services belonging to or provided by another thus depriving its owner of its use or compensation.

Sex Offenses,

Non-forcible:
Unlawful, non-forcible sexual intercourse

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.

LOCATION DEFINITIONS

On campus:

Any building or property owned or controlled by an institution of higher education within the same reasonably contiguous area of the institution and used by the institution in direct support of, or in a manner related to, the institution's

educational purposes, including residence halls, (Includes all academic, administrative, and athletic buildings on the main campus, all campus parking lots and common areas).

On campus residential:

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 residential facility.

Non-campus building or property:

Any building or property owned or controlled by a student organization recognized by the institution; and any building or property (other than a branch campus) owned or controlled by an institution of higher learning that is used in direct support of, or in relation to, the educational institution's educational purposes, is used by students, and is not within the same reasonably contiguous geographic area of the institution.

Public property:

All public property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk, a street, thoroughfare, or parking facility, and is adjacent to a facility owned or controlled by the institution if the facility is used in direct support of, or in a manner related to the institution's educational purposes.

Crime Statistics

The statistics provided in this year's 2022 annual security report have been compiled and published using guidelines provided by the Pennsylvania College and University Security Act and the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act as amended.

CATEGORY	VENUE	2019	2020	2021	Unfounded
CRIMINAL HOMICIDE: MURDER & NON-NEGLIGENT MANSLAUGHTER	On Campus***	0	0	0	
	In Dormitories and Other Residential Facilities	0	0	0	
	In or On a Non-Campus Building or Property	0	0	0	
	On Public Property	0	0	0	
NEGLIGENT MANSLAUGHTER	On Campus***	0	0	0	
	In Dormitories and Other Residential Facilities	0	0	0	
	In or On a Non-Campus Building or Property	0	0	0	
	On Public Property	0	0	0	
SEX OFFENSES: FORCIBLE	On Campus***	0	0	0	
	In Dormitories and Other Residential Facilities	0	0	0	
	In or On a Non-Campus Building or Property	0	0	0	
	On Public Property	0	0	0	
SEX OFFENSES NON-FORCIBLE	On Campus***	0	0	0	
	In Dormitories and Other Residential Facilities	0	0	0	
	In or On a Non-Campus Building or Property	0	0	0	
	On Public Property	0	0	0	
ROBBERY	On Campus***	0	0	0	
	In Dormitories and Other Residential Facilities	0	0	0	
	In or On a Non-Campus Building or Property	0	0	0	
	On Public Property	0	0	0	
AGGRAVATED ASSAULT	On Campus***	0	0	0	
	In Dormitories and Other Residential Facilities	0	0	0	
	In or On a Non-Campus Building or Property	0	0	0	
	On Public Property	0	0	0	
BURGLARY	On Campus***	1	0	0	
	In Dormitories and Other Residential Facilities	1	0	0	
	In or On a Non-Campus Building or Property	0	0	0	
	On Public Property	0	0	0	
ARSON	On Campus***	0	0	0	
	In Dormitories and Other Residential Facilities	0	0	0	
	In or On a Non-Campus Building or Property	0	0	0	
	On Public Property	0	0	0	
MOTOR VEHICLE THEFT	On Campus***	0	0	0	
	In Dormitories and Other Residential Facilities	0	0	0	
	In or On a Non-Campus Building or Property	0	0	0	
	On Public Property	0	0	0	

HATE CRIMES		2019	2020	2021	Unfounded
LARCENY / THEFT	On Campus***	0	0	0	
	In Dormitories and Other Residential Facilities	0	0	0	
	In or On a Non-Campus Building or Property	0	0	0	
	On Public Property	0	0	0	
SIMPLE ASSAULT	On Campus***	0	0	0	
	In Dormitories and Other Residential Facilities	0	0	0	
	In or On a Non-Campus Building or Property	0	0	0	
	On Public Property	0	0	0	
INTIMIDATION	On Campus***	0	0	0	
	In Dormitories and Other Residential Facilities	0	0	0	
	In or On a Non-Campus Building or Property	0	0	0	
	On Public Property	0	0	0	
VANDALISM	On Campus***	0	0	3	
	In Dormitories and Other Residential Facilities	0	0	0	
	In or On a Non-Campus Building or Property	0	0	0	
	On Public Property	0	0	0	

Number of Arrests

CATEGORY	VENUE	2019	2020	2021	Unfounded
LIQUOR LAW VIOLATIONS	On Campus***	0	0	0	
	In Dormitories and Other Residential Facilities	0	0	0	
	In or On a Non-Campus Building or Property	0	0	0	
	On Public Property	0	0	0	
DRUG RELATED VIOLATIONS	On Campus***	0	0	0	
	In Dormitories and Other Residential Facilities	0	0	0	
	In or On a Non-Campus Building or Property	0	0	0	
	On Public Property	0	0	0	
WEAPONS VIOLATIONS	On Campus***	0	0	0	
	In Dormitories and Other Residential Facilities	0	0	0	
	In or On a Non-Campus Building or Property	0	0	0	
	On Public Property	0	0	0	

Number of Disciplinary Referrals CATEGORY	VENUE	2019	2020	2021	Unfounded
LIQUOR LAW VIOLATIONS	On Campus***	78	1	0	
	In Dormitories and Other Residential Facilities	78	1	0	
	In or On a Non-Campus Building or Property	0	0	0	
	On Public Property	0	0	0	
DRUG RELATED VIOLATIONS	On Campus***	52	9	0	
	In Dormitories and Other Residential Facilities	51	9	0	
	In or On a Non-Campus Building or Property	0	0	0	
	On Public Property	0	0	0	
WEAPONS VIOLATIONS	On Campus***	0	0	0	
	In Dormitories and Other Residential Facilities	0	0	0	
	In or On a Non-Campus Building or Property	0	0	0	
	On Public Property	0	0	0	

Violence Against Women Act		2019	2020	2021	Unfounded
DATING VIOLENCE	On Campus***	2	0	0	
	In Dormitories and Other Residential Facilities	2	0	0	
	In or On a Non-Campus Building or Property	0	0	0	
	On Public Property	0	0	0	
DOMESTIC VIOLENCE	On Campus***	0	0	0	
	In Dormitories and Other Residential Facilities	0	0	0	
	In or On a Non-Campus Building or Property	0	0	0	
	On Public Property	0	0	0	
STALKING	On Campus***	0	0	0	
	In Dormitories and Other Residential Facilities	0	0	0	
	In or On a Non-Campus Building or Property	0	0	0	
	On Public Property	0	0	0	

*** This category includes all on-campus incidents, including “In Dormitories or other Residential facilities.” Therefore, the categories are not cumulative, but duplicative. Please note that a formal police investigation and a subsequent formal police report are not required in order for criminal activity to be included in annual security report statistics. Students need only report the incident to any university official who has a significant responsibility for student and campus activity.

The Mercyhurst University Chief of Police prepares this report using the following procedures:

1. All Police and Safety Department incident and other reports are reviewed.

2. All Residence Life reports are reviewed.

3. The Daily Crime Log is reviewed.

4. The Police and Safety, Housing, and Student Affairs Departments are surveyed, as well as other individuals having significant responsibility for student and campus activities.

5. All disciplinary letters issued to students during the reporting period are reviewed.

6. A request is made to all law enforcement agencies having jurisdiction at Mercyhurst University facilities to provide information regarding incidents investigated and arrests made on Mercyhurst University property and public property within a reasonable contiguous geographic area of the university. Note also that reported crimes may involve individuals not associated with Mercyhurst University.

MERCYHURST UNIVERSITY

2021 HEOA CAMPUS FIRE SAFETY RIGHT TO KNOW REPORT

MERCYHURST NORTH EAST CAMPUS

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MERCYHURST UNIVERSITY NORTH EAST

2021 HEOA / CLERY

Disclosure of Fire Safety Standards and Measures

Mercyhurst University is an eligible institution that maintains on-campus student housing facilities and is required to participate under this title.

NORTH EAST CAMPUS

A. 2021 On-Campus Student Housing Fire Statistics

There were no fire events in Mercyhurst North East student housing facilities

On campus student housing facility fire safety systems:

Student Living Apartments

- **North Campus Townhouses** There are 3, 8-unit buildings. All living units are equipped with 110V / battery back-up, code compliant local smoke detection. All units are equipped with ABC Portable Fire Extinguishers.
- **West Campus Townhouses**. There are 12 student living units. All units are equipped with 110V / battery back-up, code compliant local smoke detection. All units are equipped with ABC portable fire extinguishers.

Dormitories:

- **Redemptorist Hall** is a 2-story. 14 pod-type living unit dormitory. The building is protected by an automatic fire alarm system comprised of photoelectric automatic smoke detection, fixed temperature heat detection, manual fire pull stations and horn / strobe fire alarm notification. The building is equipped with full fire sprinklers. Each living unit is equipped with an ABC portable fire extinguisher.
- **Neumann Hall** is a 4 story, 45 living unit dormitories. The building is protected by an automatic fire alarm system comprised of photoelectric automatic smoke detection, fixed temperature heat detection, manual fire pull stations and horn / strobe fire alarm notification. The building is equipped with full fire sprinklers and Class-1 standpipes. Common areas are equipped with ABC portable fire extinguishers

A. Mandatory / Supervised Fire Exit Drills B. Rules / Policies on Portable Electric Appliances, Open Flames, Smoking

- Fire exit drills are conducted quarterly in all freshman housing dormitories.
- All rules and policies and regulations concerning fire safety in any student residence are proscribed and defined in the Mercyhurst University Student Handbook. These regulations are enforced by the Residence Life office by periodic health and safety inspections.
- Electrical Appliances that are prohibited or pose a potential hazard are confiscated and removed in accordance with the housing rules and regulations section of the Student Handbook and any /all applicable local fire code requirements. Appliances that are inspected for proper working order or compliance are:

- Electric blankets, heating pads
- Lamps (halogen bulbs and lamps are prohibited)
- Stereos, TV's, VCR's, computers and equipment, hair dryers / curlers, hot air popcorn poppers, microwaves, coffee pots, electric razors
- Power strips, extension cords, multi plug adaptors
- Hot plates, sun lamps, toaster ovens, electric fryers, fog machines are all prohibited appliances
- Open Flames

- Candles, incense, and smoking are prohibited in all student living units

- **Procedures for Student Housing Evacuations in the Event of a Fire**

- University policy is that in the event of any fire alarm, in any University operated building, all occupants are required to; or directed to evacuate the building utilizing the nearest exit. Once the occupants have been evacuated, they are directed to pre-designated areas of assembly. The University does provide portable fire extinguisher orientation to residence life staff but does not encourage suppression activities; building evacuation is the priority function. All automatic fire alarm systems are monitored by the University's Police and Safety operations and all received active fire alarms are forwarded to the appropriate fire agency using our established 911 reporting protocol. Follow-up calls to the Police and Safety operations are encouraged from building representatives for the provision of fire event information. The building is not re-occupied until instructed by responding emergency personnel. In the event of a significant emergency, occupants are relocated to pre-designated areas of refuge utilizing established emergency response protocols.

Fire Safety Training

- Fire safety training is provided on an annual basis to all Residence Life staff
- Portable fire extinguisher training is provided to all Residence Life staff
- Emergency evacuation training is provided to all Residence Life staff

Fire Safety Education

- Fire safety / prevention education is periodically offered to the university community
- Fire safety / prevention information is presented by the Fire Safety office to the entire University community during national Campus Fire Safety Month and during National Fire Prevention Week (2nd week of October)

Future Improvements in Fire Safety

- Fire and Life Safety is an ongoing and daily awareness of conditions that could cause or contribute to the cause of fire.
- Periodic fire safety presentations offered to University employees and staff in all departments.
- The University is including and investing in the upgrade and replacement of aging fire protection equipment and protections as a part of its capital improvements budget. These projects are a part of a multi-year plan the University is organizing in response to a Facilities Conditions Assessment Report conducted by Aramark Corp in 2007.

Fire Safety Testing, Inspection and Maintenance

- All installed fire alarm systems are tested, inspected and maintained annually in accordance with accepted codes, standards and references.
- All installed fire safety systems are periodically inspected for proper operation.
- An annual Fire Safety / Fire Risk Analysis is conducted for all University owned buildings
- Any / all reported fire safety concerns are addressed in a timely manner, mitigated and re-inspected for compliance

2021 MERCYHURST NORTH EAST CAMPUS

Building	Auto Fire Alarm System	Local Smoke Detection	Fire Sprinklers	Standpipes	Portable Fire Extinguishers
Neumann Hall	X	X	X	X	X
Redemptorist Hall	X	X	X		X
South Townhouses (12)		X			X
West Townhouses (6)		X			X
East Townhouses (8)		X			X

2021 Fire Statistics North East Campus

Building / Date	Injury	Death	Dollar Loss
0	0	0	$
0	0	0	0
Totals 0	0	0	$