Title IX Council Training

Session 1
New Regulations = New Council

• U.S. Department of Education Title IX Final Rule, 2020
  • Every institution must provide live hearings for Title IX grievance proceedings. Trained hearing officers must oversee the hearing and exclude any question or evidence deemed to be irrelevant.
  • The hearing officer must decide whether a question is “relevant” before it is answered and must explain any decision to bar a question as irrelevant. It is up to the school to ensure that all hearing officers receive adequate training on “issues of relevance.” The rules, however, don’t define what’s “relevant,” other than to exclude certain evidence—a person’s treatment records, privileged information, and (with limited exceptions) certain questions or evidence about a complainant’s “sexual predisposition or prior sexual behavior” (often called rape-shield protection). It will fall to the hearing officer to determine whether a question falls into one of these prohibited categories and to decide whether other questions are relevant.
  • Hearing panels will need extensive training on the Title IX hearing rules, the school’s conduct code and hearing procedures, the standard of proof, and the technology to be used for cross-examination and remote participation. To make informed decisions on what questions and evidence should be excluded, hearing officers will have to understand attorney-client privilege, treatment records protections, and rape-shield protections. More broadly, they will need to understand how to decide whether a question or evidence is “relevant.”
The Title IX Council

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• Allen Stanton

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Training Overview

- MMC Title IX Policy
- MMC Code of Conduct + Employee Handbook
- Hearing Procedures
- Hearing Technology
- Traumatic Memory Formation
- Standard of Proof
- Assessments of Credibility and Relevance
- Cross Examination
- Burdens of Proof
- Weighing Direct and Circumstantial Evidence
- Attorney-Client Privilege, Treatment Records Protections, and Rape-Shield Protections
- Advisor Training
Sexual Violence
Every 98 seconds, an American is sexually assaulted.
9 OUT OF EVERY 10 VICTIMS OF RAPE ARE FEMALE

90% female
17.7 million American

10% male
2.78 million American
THE MAJORITY OF SEXUAL ASSAULT VICTIMS ARE UNDER 30

15% age 12-17
54% age 18-34
28% age 35-64
3% age 65+
NUMBER OF PEOPLE VICTIMIZED EACH YEAR

Inmates: 80,600 were sexually assaulted or raped

Children: 60,000 were victims of “substantiated or indicated” sexual abuse.

General Public: 321,500 Americans 12 and older were sexually assaulted or raped.

Military: 18,900 experienced unwanted sexual contact.
### Relocation

71% of victims wanted to move after being sexually assaulted by their landlords, but could not afford to break a lease.

### Victimization of Individuals Who Are Homeless or Marginally Housed

#### Victims of Physical or Sexual Violence
- **58%** Of homeless LGBT youth
- **32%** Of homeless women
- **27%** Of homeless men
- **24%** Of homeless youth witness sexual assaults

#### Reasons Why Youth Leave Their Homes
- Being sexually abused at home: 61% Girls, 16% Boys
- Many homeless/ runaway LGBT youth leave after being rejected because of their gender identity and/or sexual orientation:
  - 46% Run away
  - 43% Forced out

#### Commercial Sexual Exploitation Victims
- 70% Youth-aged victims living on the streets
- 30% Youth-aged victims living in shelters
1 out of every 6 American women has been the victim of an attempted or completed rape in her lifetime (14.8% completed, 2.8% attempted).
RATES OF SEXUAL ASSAULT ON COLLEGE CAMPUSES

20%
The University of Michigan study, one of the few schools to publish survey results, found that 20% of its female undergraduates experienced sexual assault.

17%
This past October, MIT published its survey results and found that 17% of female students experienced unwanted sexual contact.

16%
The University of New Hampshire found that 16% of its female students experienced sexual assault via force, threats or intoxication.

19%
According to the White House, which cited The 2007 Campus Sexual Assault Study, reported that 19% of female students reported being victims of sexual assault or misconduct.
COLLEGE WOMEN ARE TWICE AS LIKELY TO BE SEXUALLY ASSAULTED THAN ROBBED

5 robberies for every 4 sexual assaults

All women

2 sexual assaults for every 1 robbery

College women

Robberies

Sexual Assaults
Males ages 18-24 who are college students are approximately 5 times more likely than non-students of the same age to be a victim of rape or sexual assault.
- 61% of bisexual women have experienced rape, sexual violence, or stalking.
- 44% of lesbians have experienced rape, sexual violence, or stalking.
- 37% of bisexual men have experienced rape, sexual violence, or stalking.
- 26% of gay men have experienced rape, sexual violence, or stalking.
- 42% of students transfer schools or change majors after being assaulted.
- 6% of students who identify as LGBTQ reported forced sex.
- 25% do not report for fear of hostile police treatment.
Transgender Sexual Violence Rates

47% of transgender people experience sexual assault in their lifetime.

65% of transgender people experiencing homelessness also experienced sexual assault.

3% of transgender students in higher education experienced sexual assault.

1% of transgender people experienced sexual assault at work.

17% of transgender people accessing shelter services experience sexual assault.

20% of incarcerated trans people experienced sexual assault.
55% of women and 75% of men were drinking or taking drugs before being involved in date rape.

52% of students who drank alcohol in the last 12 months reported doing something they later regretted, forgot where they were or what they did, had unprotected sex, sex without consent, became injured or experienced some other form of harmful consequence or concern of their drinking.

Over half of all post-secondary sexual assaults involve drugs or alcohol, and most occur between people who know each other, are dating, friends and/or acquaintances, and are hanging out at parties or other university events.
MORE THAN HALF OF ALL ALLEGED RAPISTS HAVE AT LEAST ONE PRIOR CONVICTION

Out of every 1000 suspected perpetrators referred to prosecutors for rape, robbery, assault & battery crimes:

<table>
<thead>
<tr>
<th># of Perpetrators</th>
<th>Rape</th>
<th>Robbery</th>
<th>Assault &amp; battery</th>
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<tbody>
<tr>
<td>120</td>
<td>140</td>
<td>110</td>
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<td>190</td>
<td>170</td>
<td>210</td>
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<td>130</td>
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<tr>
<td>80</td>
<td>100</td>
<td>100</td>
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</tbody>
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1 conviction
2-4 convictions
5-9 convictions
10 & more convictions
8 OUT OF 10 RAPES ARE COMMITTED BY SOMEONE KNOWN TO THE VICTIM

- 19.5% are committed by a stranger.
- 39% are committed by an acquaintance.
- 33% are committed by a current or former spouse, boyfriend, or girlfriend.
- 6% are committed by more than one person or the victim cannot remember.
- 2.5% are committed by a non-spouse relative.
<table>
<thead>
<tr>
<th>Event</th>
<th>Number</th>
</tr>
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<tbody>
<tr>
<td>Out of every 1000 rapes, 994 perpetrators will walk free</td>
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<tr>
<td>310 are reported to police</td>
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<tr>
<td>57 reports lead to arrest</td>
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<tr>
<td>11 cases get referred to prosecutors</td>
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<tr>
<td>7 cases will lead to a felony conviction</td>
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<tr>
<td>6 rapists will be incarcerated</td>
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</table>
**REASONS VICTIMS CITED FOR NOT REPORTING**

**4 OUT OF 5 STUDENTS**
- females 18-24

- 31% other reasons
- 26% believed it was a personal matter
- 20% had a fear of reprisal
- 12% believed it was not important enough to report
- 10% did not want the perpetrator to get in trouble
- 9% believed police would not or could not do anything to help
- 4% reported but not to police

**2 OUT OF 3 NON-STUDENTS**
- females 18-24

- 35% other reasons
- 23% believed it was a personal matter
- 20% had a fear of reprisal
- 19% believed it was not important enough to report
- 14% did not want the perpetrator to get in trouble
- 10% believed police would not or could not do anything to help
- 5% reported but not to police
Title IX 101
The Law

Title IX of the Education Amendments of 1972 is a federal law that prohibits sex discrimination in education.

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

-Title IX of the Education Amendments of 1972, and its implementing regulation at 34 C.F.R. Part 106 (Title IX)
2020 Final Rule

- Sexual Harassment now includes Sexual Assault & VAWA definitions.
- Colleges must investigate allegations of Sexual Harassment and take appropriate disciplinary action.
- Obama-Era Dept. of Ed = focus on protecting victims
- Trump/DeVos Dept. of Ed = focus on due process of accused
Intersects with Clery

- Jeanne Clery Act
  - Crime awareness can prevent campus victimization
  - Requires colleges receiving federal funding to prepare, publish, and distribute campus security policies and crime statistics by October 1 of each year.
    - Requires prompt, fair, and impartial process
    - Requires all officials involved to be trained on issues relating to Dating Violence, Domestic Violence, Sexual Assault, and Stalking.
    - Requires all officials involved to be trained on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.
Intersects with VAWA

- Clery Act + Violence Against Women Act
  - Amended the Clery Act to add Sexual Assault, Dating Violence, Stalking, and other reportable crimes
  - Recently added the Campus SaVE (Sexual Violence Elimination) Act
    - Expands the obligations of reporting, response, and prevention education requirements around rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking.
    - Can issue timely warnings of serious threats
  - Enforced by Department of Education via substantial fines for violations and potential loss of federal student aid eligibility

2020 Rules establishes same definitions!  
Different law enforcement & disclosure requirements
Title IX & FERPA

• If FERPA is preventing the College’s effort to prevent sex-based discrimination, Title IX wins...

• ...at least as of 2001...
  • “FERPA continues to apply in the context of Title IX enforcement, but if there is a direct conflict between requirements of FERPA and requirements of Title IX, such that enforcement of FERPA would interfere with the primary purpose of Title IX to eliminate sex-based discrimination in schools, the requirements of Title IX override any conflicting FERPA provisions.”
    • Has not been revoked as part of Final Rule, but has not been commented upon either.

• ...but will always be coordinated by the Title IX Coordinator.

• You will never discuss a Title IX case with anyone not on the applicable panel with you.
  • If you have concerns about a timely warning, contact the Title IX Coordinator.
What is/is not Title IX

**Is/May Be**

- Discrimination based on gender (including gender-identity)
- Discrimination based on sexuality
- Sexual Harassment
- Pregnancy discrimination
- Retaliation (in regards to sex-based harassment)
- Bullying & Cyber-bullying (in regards to sex-based harassment)
- Hazing (when it involves sex-based harassment)

**Is NOT**

- Disability discrimination (ADA)
- Employment discrimination based on race, religion, or national origin (Title VII)
  - Title VII includes sex-based discrimination, which does fall under Title IX
- Student discrimination based on race, religion, or national origin (Title VI)
- Age discrimination (ADEA)
Compliance

- Complaints
- Athletic Equality
- Policy
- Education, Training, & Prevention
Parties Involved

From the Institution

- Title IX Coordinator
  - Investigator
  - Decision Maker
  - Council Members (Panel)
  - Appellate Decision Makers
  - Informal Resolution Facilitators
  - Responsible Employees

From the Incident

- Complainant (Reporter)
- Respondent (Accused)
- Advisors
- Witnesses
Language

Guilty

Trial

Crime

Responsible

Hearing

Violation
Prohibited Conduct

Did the conduct violate our policy?

- Our policy only applies to our jurisdiction.
- Attempts are not violations.
- Each qualifying part of a definition must be met.
Hearings 101
Procedure

Title IX Coordinator calls Council members for Panel
- Provide names, dates, and summary of allegations

Panel members evaluate own bias/conflict of interest
- Recuse themselves if necessary

Title IX Coordinator sends Investigation Report for review
- Review facts
- Avoid pre-judgement

Hearing
The Investigation Report

1. The allegations
2. How & when the allegations were reported
3. Relevant policy
4. Who investigated
5. Timeline of investigation, including delays
6. Timeline of events
7. Information from parties & witnesses
8. Information or witnesses not included/considered + why
9. Physical evidence
10. Summary of relevant information

- Will be a presentation of the facts only
- Will include facts that are disputed and inconsistencies
- Will include details of information not provided
- Should never include analysis
- Should never include credibility assertions
Allegations

1. On October 10, 2020, beginning at approximately 10:00 PM, in Upperman Hall,
   • Blake planned to provide and did provide alcohol to Elizabeth and pressured her
eight to drink it to cause incapacitation in order to gain a sexual advantage,
   • in violation of Student Conduct Code 25: Sexual Exploitation.

2. On October 11, 2020, at approximately 1:45 AM, in Upperman Hall,
   • Blake forced Elizabeth to perform oral sex on him against her will by holding
Elizabeth’s head down so that she could not stop performing oral sex,
   • in violation of Student Conduct Code 25: Rape.
   • Blake and Elizabeth engaged in vaginal intercourse after Elizabeth had been
drinking excessively and did not have the capacity to consent,
   • in violation of Student Conduct Code 25: Rape.
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One allegation can contain multiple elements we must consider in determining a violation.
Summary of Relevant Information

• With respect to Elizabeth’s capacity to consent, the College finds the following facts:

  1. Elizabeth reports that she began drinking alcohol at 9:15 PM. She reports that she had 2 shots of vodka with Emily around 9:15 in Emily’s residence hall room before leaving the room.
     - This was confirmed by Emily, who recalls that she was almost out of vodka so she remembers that there were only about 4 shots left in the bottle. She and Elizabeth each took two simultaneously.

  2. Elizabeth reports that Blake was “trying to get her fucked up” by giving her multiple beers and making her play beer pong.
     - Ben corroborated Elizabeth’s report that Blake provided her with a 20 oz. red solo cup of beer about 30 minutes after she arrived at Upperman 407. Ben recalls that Blake told Elizabeth to finish it, pressured her to play beer pong, and filled up the cups in the second game with Fireball (cinnamon-flavored whiskey).
     - Additional witnesses corroborated: Tuck, Thomas, and Amy.
     - Blake does not remember providing Elizabeth with a solo cup of beer. Blake denies pressuring her to drink, adding that he “barely knows her. Why would [he] care if she drank or not?”
Summary of Relevant Information

3. Both parties agree that they began playing beer pong around 10:30 PM.
   - A photo from 10:42 supports this (Appendix A).

4. Both parties agree that after the second beer pong game, Blake gave Elizabeth another 20 oz. red solo cup of beer and they began to “make out.”
   - Additional witnesses corroborated: Tuck, Ben, and Amy.
   - Blake does not remember providing Elizabeth with a solo cup of beer.

5. By the time the parties began to “make out,” at approximately 12:15 AM, Elizabeth had consumed two 20 oz. red solos cup of beer from Blake, 5 mostly-full red solo cups of beer during the first beer pong game, and 4 less-than-half-full red solo cups of Fireball during the second beer pong game. This is in addition to the two shots of vodka Elizabeth consumed before arriving in Upperman Hall.
   - Blake claims to not have any idea how much Elizabeth had to drink, or “what she could handle.”

6. Elizabeth is an 18-year old, first-year female student, weighing around 110 lbs. Elizabeth reports the night of October 10 was only her second time drinking, and she did not fully know or understand her limits.
   - Emily, who met Elizabeth the first week of school, corroborated this, recalling that Elizabeth told Emily during the first weeks of school that she had never had alcohol before. Emily remembers because Elizabeth seemed embarrassed about it, and Emily sought to reassure that it was normal.
Procedure

Hearing

- Decision Maker establishes Rules of Decorum & Expectation
- Complainant offers opening statement
- Respondent offers opening statement
- Panel calls any party for questioning
  - Each party questioned must be questioned by Advisors
  - Can call investigator if needed
  - Advisors can request parties not called by Panel for question
- Panel deliberates privately
  - Decision Maker authors written decision and rationale, including sanctions
- Panel signs decision
- Title IX Coordinator simultaneously delivers decision to both parties
- Both parties can appeal within 5 days of receiving decision
**Procedure**

**Hearing**

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Almost always experiences delays
- Breaks
- A party or advisor isn’t present
- Advisor is dismissed
- Witnesses don’t appear
- Parties move to informal resolution
- Technology issues
- Illness or emergency
- Police investigations
Procedure

Hearing

Decision Maker establishes Rules of Decorum & Expectation
Complainant offers opening statement
Respondent offers opening statement
Panel calls any party for questioning
Panel deliberates privately
Decision Maker authors written decision and rationale, including sanctions
Panel signs decision
Title IX Coordinator simultaneously delivers decision to both parties
Both parties can appeal within 5 days of receiving decision

Can take place over multiple days
Will certainly require days to write full decision
Panel should be ready to sign off as soon as decision is complete
Evidence

Direct Evidence
- First-person observation of an incident

Circumstantial Evidence
- Reported observation of info that offers inferences about the facts of the incident

Documentary Evidence
- Written description of an incident
  - Police report
  - Residence Hall Report
  - Texts
  - Videos

Hearsay Evidence
- Information that is reported through another party

Expert Evidence
- Information shared from a person with acknowledged expertise in a subject matter
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Memories are often challenged

“Is this something that you know directly?”
“Where did this information come from?”

Decision Maker must evaluate credibility and judge relevance
Questioning Witnesses

• Panel members will ask questions first
  • A panel member should test veracity of statements
    • “Did you make this statement to the investigator?”
    • “Were your statements to the investigator truthful?”
    • “Is there anything you would like to verify?”

• Panel member can ask pre-approved questions from parties/advisors

• Advisors are permitted to ask relevant questions (including follow-up questions and questions challenging credibility)

• Decision Maker must decide before the question is answered whether the question is relevant
  • If the Decision Maker deems the question to be irrelevant, (s)he must explain rationale live and in real time
  • Decision Maker can ask the question-asker clarifying/follow-up questions
    • “What is the purpose of that question?”
    • “Can you rephrase that question/make it more clear or concise?”
Determining Intoxication vs. Incapacitation

• Consumption
  • What was consumed?
  • How much was consumed?
  • Over what period of time?

• Conscious
  • Was the person aware?
  • Did the person blackout?

• Coordinated
  • Did the person use their phone?
  • Was the person okay to drive?
  • Could the person walk without assistance?
  • Could the person key into building/room?

• Communications
  • Could the person speak clearly?
  • Could the person respond to questions?
  • Was the person confused in their responses?
  • Did the person send coherent text/digital messages?

• Corroboration
  • Who saw the person?
  • Was there footage?
When a Witness Doesn’t Appear

...or when (s)he refuses to answer questions

- We will reschedule/allow for reasonable delays as much as possible, but only to a certain limit

- If a party does not appear before the panel when called, the panel must not rely on any statement of that person in reaching a determination
  - Does not include evidence (i.e. videos) that do not constitute a person’s intent to make factual assertions or to the extent that such evidence does not contain a person’s statements

- Panel cannot draw an inference (positive or negative) about the determination based solely on a person’s absence from the live hearing
Evaluating Witnesses & Evidence

• Focus on behavior, not character

• What information is known?
• What information is unknown?
• What questions could clarify the unknowns?

Preponderance of Evidence
There is a greater than 50% chance that the claim is true.
Reaching a Determination

- Consider each allegation individually
- Review the policy alleged to have been broken and relevant definitions
- Be able to articulate:
  1. Facts that support your determination
     - Include admissions that occurred during the hearing
  2. How the facts demonstrate a policy violation
     - Elements of alleged violation
     - Connect rationale to each element
     - Refer to facts that support each element
     - Note facts that do not support each element
  3. Why someone/thing was considered not credible or relevant
     - What if someone watching the hearing asked, “But what about what X said?”
  4. What will be needed, if anything, to restore educational access
Fondling.
The touching
of the **private body parts**
of another person
for the **purpose of sexual gratification**
without **consent** of the victim

**Which parts?**
What made them private?

**How do you understand the purpose?**

**Was there force/an age or capacity issue?**
Was there general consent?
Fondling.
The touching of the private body parts of another person for the purpose of sexual gratification without consent of the victim.

Reaching a Determination

Show that touching occurred.
Show where it happened.
Show that it happened to another person.
Show how you know the purpose.
Show how you determined there was not consent.
Fondling. The touching of the private body parts of another person for the purpose of sexual gratification without consent of the victim.

Show where it happened.
Show that it happened to another person.
Show how you know the purpose.
Show how you determined there was not consent.
Reaching a Determination

Supportive Measures
- For both parties
- Instituted by Title IX Coordinator
- Must end when determination is reached

Remedies
- For Complainant only
- Designed to restore educational access

Sanctions
- Against Respondent only
Determining Relevancy
Relevancy

• No federal definition, but the guidance says “ordinary meaning”

• Relevant. Tending to make a fact more or less likely to be true.
  • Examples of information not deemed relevant include but are not limited to privileged information, including treatment information, unless parties agree to the disclosure of such information, and information regarding a Complainant’s sexual predisposition or prior sexual behavior unless they are offered to prove that someone other than the Respondent committed the Sexual Harassment, or if the information concerns specific incidents of the Complainant’s prior sexual behavior with the Respondent and are offered to prove Consent.
Relevancy

• Not Relevant Information:
  • Treatment history (unless party agrees in writing)
  • Privileged information
    • Hired attorney
    • Medical provider
  • Questions/evidence about the Complainant’s sexual predisposition or prior sexual behavior unless they are offered to prove that someone other than the Respondent committed the sexual harassment, or if the questions and evidence concern specific incidents of the Complainant’s prior sexual behavior with the Respondent and are offered to prove consent
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Not-Privileged Information:

• MMC Advisor
• Attorney, medical professional, counselor, etc. not serving in that capacity
Relevancy

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  • Treatment history (unless party agrees in writing)
  • Privileged information
    • Hired attorney
    • Medical provider
• Questions/evidence about:
  • the Complainant’s sexual predisposition, or
  • the Complainant’s prior sexual behavior
    • UNLESS
      • they are offered to prove that someone other than the Respondent committed the sexual harassment, or
      • if the questions and evidence concern specific incidents of the Complainant’s prior sexual behavior with the Respondent AND are offered to prove consent
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        • they are offered to prove that someone other than the Respondent committed the sexual harassment, or
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“Consent to some sexual acts does not constitute Consent to others, nor does past Consent to a given act constitute present or future Consent. Consent must be ongoing throughout a sexual encounter and can be revoked by any participant at any time.”
Hypothetical

Thomas and Josh are current students at Martin Methodist.

• **Thomas:**
  • Thomas is a Junior and lives in an off campus apartment. He is a member of the soccer team and is of large stature. He is the VP of the Student Government Association. Thomas is also President of the Equality Alliance, a recognized student organization on campus. Thomas has four roommates who are all officers of the Equality Alliance. The group usually meets at Thomas’s apartment for their weekly meetings.

• **Josh:**
  • Josh is a Freshman and lives in residence hall, Upperman Hall, on campus. College is overwhelming to Josh and he hasn’t quite found a group of peers that he fits in with. Josh is gay, but has not come out to his family and friends from home. Josh has one roommate, Quin. They are not close and have different schedules.
Hypothetical

- **Summary of Relevant Facts/Evidence gathered from Josh (Complainant)**
  - Thomas and Josh met on Grinder (dating app) in September 2019. They first met in person at a coffee shop off campus, one town over, on October 11, 2019. They started meeting up once or twice per week following their first “coffee date.” They usually met at Josh’s residence hall during times when Josh knew Quin would not be around. Josh always wondered why he wasn’t invited to Thomas’s apartment to hang out or why they always met far away from campus when they were in public together. Josh pushed this to the back of his mind and figured that they would work up to a public relationship. He didn’t want to let his emotions get the best of him or cause him too much worry.
  - Josh attended a few meetings with the Equality Alliance but he was not a regular and felt uncomfortable for two reasons 1) he had only recently come out as gay, and 2) Thomas acted as if he didn’t know Josh at all at the meetings.
Hypothetical

- During their first few dates, Thomas and Josh kissed but did not do anything more sexually. They talked a lot and just got to know each other. Josh felt as though Thomas was a good, kind, person who was helping Josh find himself sexually. He was thankful for the advice from Thomas and thought their relationship had the potential to go somewhere.

- As the relationship progressed, Josh and Thomas began to have oral sex routinely (at least once per week). This was a new experience for Josh and Thomas was patient with Josh.

- On November 7, 2019, Thomas initiated anal sex with Josh in Josh’s residence hall room. Josh asked Thomas to stop and told him he did not want to engage in sex but that oral sex would be okay. Thomas got angry with Josh. Thomas slapped Josh across the face, got up, put on his clothes and walked out of the residence hall room. Josh was shocked, didn’t speak but just stayed on the bed. When he got up the next morning, Josh still had a red handprint on his face and his right eye was turning black. He did not go to class on November 8, 2019. Quin, who usually doesn’t even talk to Josh was worried about him and asked Josh was okay. Quin saw the handprint on Josh’s face and was shocked. He asked Josh who did that to him and Josh did not answer, just lowered his eyes.
Hypothetical

• On November 10, 2019, Thomas reached out to Josh to apologize. He invited Josh to come to his apartment to hang out. Josh was excited for the invite and quickly forgave Thomas. When Josh arrived at the apartment, none of Thomas’s roommates were home. Thomas told Josh that they had all gone to a local baseball game. Thomas said he didn’t go because he really wanted to hang out with Josh, and he felt bad for how he acted. Josh felt really special and was excited to hang out with Thomas. They had a great night, had oral sex, and Thomas did not initiate any other contact. Thomas drove Josh home before any of Thomas’s roommates arrived home.

• Thomas and Josh went about their normal routine of meeting up one or two times per week for the next month. On a few occasions Thomas hit Josh when he got mad, but none of those times were nearly as bad as the first time. Josh doesn’t know the specific dates of those incidents but they occurred sometime between November 10, 2019 and December 8, 2019. Josh had a few bruises on his chest and one on his arm but they were covered by shirts so no one ever saw them. He did not take pictures or show the bruises to anyone.

• Josh even confided in Quin that he and Thomas were hooking up. Quin was surprised because Thomas is “kind of a big deal” and Josh was such an introvert. Quin and Josh were still not great friends, but it felt good for Josh to say it out loud. He had been keeping the relationship completely to himself prior to the conversation with Quin.
On December 8, 2019, Josh invited Thomas on a “real date.” He wanted to surprise Thomas with a Christmas present before the two headed home for Winter Break. Thomas agreed but wanted to pick the restaurant. He chose a restaurant in Fayetteville, Tennessee and stated that he would drive.

Thomas picked up Josh at 7:00 PM that evening. Sally, a female acquaintance of Josh walked up to him as he was getting in Thomas’s car in the parking lot of residence hall. She said hi and asked Josh what he was doing. Josh told Sally that he and Thomas were going on a date. Sally smiled and said, “that’s awesome, I didn’t know you two were dating.” Thomas didn’t speak to Sally at all, just looked forward in the car.

When Josh closed the door, Thomas started screaming at Josh. He told Josh that he was not supposed to speak of their relationship. Josh apologized profusely and said he didn’t realize that it was such a secret. Thomas would not explain why he cared so much. He drove exceptionally aggressively to the restaurant, nearly hitting several other cars, weaving in and out of traffic, and going over 100 mph. Josh was scared. Thomas screamed, “You should be scared. Your life is in my hands right now.” Josh didn’t say anything else because he didn’t want to make Thomas mad.

By the time they reached the restaurant, Thomas had calmed down. Dinner went surprisingly well. Josh gave Thomas the Christmas present. It was tickets to a concert where Thomas’s favorite band was playing. Thomas didn’t seem as excited as Josh expected he would be, but he said thank you and took the tickets. He told Josh, “I will give you your present later.”
Hypothetical

- On the way home, Thomas pulled the car into a parking lot at the East Campus soccer fields, and owned by the College. There was no one around. Thomas and Josh started “fooling around” and Thomas initiated sex. Josh said, “No, I am not ready.” Thomas responded, “This is your present...I am giving it to you whether you are ready or not.”

- He then forcefully inserted his penis, causing Josh to yell out in pain. Thomas covered Josh mouth to stop him from screaming even though no one was around. Josh attempted to push Thomas off but Thomas was really strong and muscular. He eventually gave up, tears running down his face until Thomas finished (ejaculated).

- Josh is unsure whether Thomas used a condom.

- Josh did not speak to Thomas on the drive back to his residence hall.

- When Thomas pulled up, Josh jumped out of the car and went to his room. He blocked Thomas from all communication, deleted all messages (text and Grinder) and has not talked to him since.
Hypothetical

• Josh left on December 9, 2019 to go home for Winter Break. When he arrived home, he decided that he needed to go get checked out because he was in pain. He went to the local sexual assault center where he had a SANE exam. He told the nurse what happened and she wrote notes about his statement, then conducted the exam. Josh has agreed to provide the records for purposes of the ICS investigation.

• **Summary of Relevant Facts/Evidence gathered from Thomas (Respondent)**
  - Thomas denies having any relationship or communication with Josh. He states that Josh must be delusional and just “want to be with him.” He acknowledges knowing Josh from the few times he came to Equality Alliance but otherwise, has never talked to him.
  - Thomas provides four of his roommates as witnesses.

• **Summary of Relevant Facts/Evidence gathered from Thomas’s roommates**
  - All four roommates say the same thing, they only know Josh from the Equality Alliance meetings and have never seem him with Thomas. They state Josh seems shy and Thomas is anything but shy. They are close friends and would KNOW if he was in a relationship or even messing around with someone. Thomas would never do anything to hurt anyone. He was a “tough guy” but would never hurt a fly.
**Hypothetical**

- **Summary of Relevant Facts/Evidence gathered from Quin**
  - Quin states that he and Josh are not close but that Josh told him that he was dating Thomas. He never saw them together and has no way to confirm their relationship. He remembers a time in the late fall when Josh had a black eye/slap mark but does not know how he got it.

- **Summary of Relevant Facts/Evidence gathered from Sally**
  - She saw Josh getting into a car with someone who she thought was Thomas but can’t be sure. She knows Josh “kind of well” and would be really surprised if he was dating Thomas, who “is one of the most popular guys on campus.” However, she does know that Thomas drives a car like the one she saw Josh getting into.

- **Summary of Relevant Facts/Evidence gathered from SANE Nurse**
  - She examined Josh and was able to tell that anal intercourse occurred. There appeared to be some tearing but she was unable to tell if there was force. There were some bruises on Josh’s arms and one large bruise on his back, could have been from a knee. There was no DNA found.
  - She wrote a summary of the statement Josh provided to her at his appointment. It is substantially similar to the statement he has given to investigators.
Hypothetical

• **Summary of Additional Relevant Facts/Evidence**
  • Copy of receipt for concert tickets purchased by Josh on December 5, 2019.
  • Medical records from SANE Nurse including statement summary and photos of bruises

• **Additional Information**
  • Josh brought forward the complaint to the Title IX Coordinator on January 14, 2020.
  • A formal complaint was signed by Josh on January 22, 2020.
Hypothetical

• What are the allegations in this case?
Hypothetical

• What are the allegations in this case?

• What questions do you have in regards College’s response to these allegations?
Hypothetical

• What are the allegations in this case?

• What questions do you have in regards College’s response to these allegations?

• What other things might be helpful for you to understand the events?
Hypothetical

- What are the allegations in this case?
- What questions do you have in regards College’s response to these allegations?
- What other things might be helpful for you to understand the events?
- Questions to Josh, the Complainant, from Sarah Catherine, Thomas’s advisor
What are the allegations in this case?
What questions do you have in regards College’s response to these allegations?
What other things might be helpful for you to understand the events?
Questions to Josh, the Complainant, from Sarah Catherine, Thomas’s advisor
Questions to Thomas, the Respondent, from Sarah Catherine, Josh’s advisor
Hypothetical

• What are the allegations in this case?
• What questions do you have in regards College’s response to these allegations?
• What other things might be helpful for you to understand the events?
• Questions to Josh, the Complainant, from Sarah Catherine, Thomas’s advisor
• Questions to Thomas, the Respondent, from Sarah Catherine, Josh’s advisor
• Questions to Sally, a Witness
Hypothetical

• What are the allegations in this case?
• What questions do you have in regards College’s response to these allegations?
• What other things might be helpful for you to understand the events?
• Questions to Josh, the Complainant, from Sarah Catherine, Thomas’s advisor
• Questions to Thomas, the Respondent, from Sarah Catherine, Josh’s advisor
• Questions to Sally, a Witness
• Questions to Quin, a Witness
Hypothetical

• What are the allegations in this case?
• What questions do you have in regards College’s response to these allegations?
• What other things might be helpful for you to understand the events?
• Questions to Josh, the Complainant, from Sarah Catherine, Thomas’s advisor
• Questions to Thomas, the Respondent, from Sarah Catherine, Josh’s advisor
• Questions to Sally, a Witness
• Questions to Quin, a Witness
• Questions to Josh’s roommate, a Witness
Evaluating & Eliminating Bias
“Free from Conflict of Interest or Bias”

• For or against Complainants or Respondents, generally
• Related to a Complainant or Respondent

• Whether a reasonable person believes a bias/conflict of interest exists
  • Would someone else reasonably think I would have a bias/conflict of interest here?
Conflicts of Interest

1. A conflict between the private interests and the official or professional responsibilities of a person in a position of trust

2. A conflict between competing duties (as in an attorney’s representation of clients with adverse interests)
Explicit Bias

• Attitudes and beliefs we have about a person or group on a conscious level:
  • Expressed directly
  • Aware of bias
  • Operates consciously

“I don’t think a women would make a good CEO because they’re too emotional.”
Implicit Bias

- Attitudes or stereotypes that affect our understanding, actions, and decisions in an unconscious manner
  - Expressed indirectly
  - Unaware of bias
  - Operates subconsciously

A father and son are in a horrible car crash that kills the dad. The son is rushed to the hospital; just as he’s about to go under the knife, the surgeon says, “I can’t operate—that boy is my son!”
Recuse Yourself

- Bias/conflict of interest is basis for appeal.
- Do your behaviors indicate a bias/conflict of interest?
  - Social media
  - Office decor
- If there is any question about your bias/conflict of interest, recuse yourself from the case.
  - Would someone else reasonably think I would have a bias/conflict of interest here?

“I don’t think a women would make a good CEO because they’re too emotional.”

A father and son are in a horrible car crash that kills the dad. The son is rushed to the hospital; just as he’s about to go under the knife, the surgeon says, “I can’t operate—that boy is my son!”

Bias against women
Technology
Technology Policies

- Investigations are never recorded.
- All hearings are recorded (audio and visual) in their entirety.
  - All recordings are stopped for breaks.
  - Panel deliberations are never recorded.
- Parties will never be in the same room at the same time. Access will be via live audio/visual feed.
- Access to recordings is strictly restricted to participants for review only, never copy or note-taking.
Zoom Tutorial for Beginners: How to Use Zoom Video Conferencing

https://www.youtube.com/watch?v=U_JohBDMur4
Sanctions
Student Life Code of Conduct

- College Jurisdiction
  - College jurisdiction and the Student Code of Conduct is limited to conduct which occurs on College premises, at College-sponsored events, or which adversely affects the College community and/or the pursuit of the College’s mission. This includes violations of local, state, or federal laws which could take place off-campus but could have a negative impact on the college community. Each student shall be responsible for his/her conduct from the time of application for admission through the actual awarding of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment. The Student Code of Conduct shall apply to a student’s conduct even if the student withdraws from school while a conduct matter is pending.
Student Life Code of Conduct

• **Student Responsibility**
  • Students may be held accountable for violations which occur in their presence and which they fail to take the appropriate actions of reporting the violation and removing themselves from the situation. Should a student become aware of a real or potential policy violation, the student shall advise the offender or potential offender that such action is a policy violation, inform a College Official about the violation, and not become a participant in the violation by remaining present when the violation is occurring.
  • Any student found responsible for violating one or more of the following policies is subject to the outcomes listed in the *Student Conduct Process*. 
Student Life Code of Conduct

Categories

Abuse

• **Conduct Process Abuse:** This includes but is not limited to: Failure to obey the summons of a Conduct body; Falsification or misrepresentation of information before a Conduct body; attempting to discourage an individual’s proper participation in, or use of, the Conduct process; Attempting to influence the impartiality of a member of the Conduct body. *(Level 1 or Level 2)*

• **Physical Abuse:** This includes any encounter that becomes physically abusive between two or more persons. This includes actual or attempted pushing, hitting, kicking, spitting, wrestling, or pulling hair. *(Level 2 or Level 3)*

• **Technology Abuse:** This includes the misuses of college technology in violation of the standards for ethical and legal usage of campus computers, campus resources or campus networks will result in one of the following sanctions. This also includes tampering, interfering, or damaging security and/or safety equipment (surveillance cameras, locks, etc.) *(Level 1 or Level 2, or Level 3)*

• **Verbal Abuse:** This includes profanity, harassment, or any conduct that is loud, abusive, or inappropriate, and is perceived as detrimental to the health and safety of any person. This also includes the public use of profanity on College Premises (i.e. yelling profanity across the yard or from a window). *(Level 1 or Level 2)*
Student Life Code of Conduct

Categories

Alcoholic Beverages

• **Alcoholic Beverages**: The consumption and/or possession of alcohol (including empty containers) is prohibited on the Martin Methodist College campus or any of its facilities, and at any event on or off the campus which is official college business. This includes possession of alcoholic beverages in one’s room, on one’s person, in personal belongings, or in one’s vehicle.

  • This includes, but is not limited to, athletic events and/or social gatherings sponsored by the college. College regulations prohibit any student or student organization from allowing its members or guests to violate college policy concerning alcoholic beverages. No organization may plan or have an official college activity on campus that includes the use of alcoholic beverages.

  • If alcohol (including but not limited to empty containers) is found in a common area of a residence hall room or apartment, everyone in that room or apartment is subject to disciplinary action. (Level 1 or Level 2)

• **Intoxication**: Intoxication as exhibited by behavior is prohibited. The influence of alcohol will not be considered a legitimate excuse for violation of other college policies and may result in a more severe sanction for such violation. [If any student is in medical danger because of intoxication, seek medical attention immediately. [Please review the Amnesty policy.] *(Level 1 or Level 2)*
Student Life Code of Conduct

Categories

Communicating Threats:

- This includes any act, verbal or non-verbal, which is threatening or intimidating, or is perceived as threatening or intimidating or is perceived as detrimental to the health and safety of any person. Bias-related incidents, including instances of hate speech, may qualify as harassment under this Code. (Level 2 or Level 3)

Compliance with Laws:

- All students are expected to comply with federal, state, and local laws. When a student is convicted of such a violation and the circumstances indicate that the student’s continued presence on campus creates a clear and present danger of serious physical or mental harm to the student, the members of the college community, or the educational process of the college, the college may impose sanctions including suspension or expulsion. A student who has been accused of a criminal offense the nature of which constitutes a clear and present likelihood of a serious danger to the student, the other members of the college community, or the educational process of the college, may have imposed by the Vice President of Student Affairs a temporary sanction, including suspension. Such temporary sanctions may exist and be enforced only until such time as the properly constituted authority has made final disposition of the case. If the student is convicted and put on probation, the student will be suspended for the duration of the probation. (Level 1 or Level 2 or Level 3)
Student Life Code of Conduct

Categories

Controlled Substances

- **Drugs:** Possession by any student of controlled, prohibited, or illegal substances for purposes or in manners not as directed. This includes possession/use of controlled substances in one’s room, on one’s person, in personal belongings, in one’s vehicle, or being in the presence of controlled substances. Examples include but are not limited to: possession or use of illegal substances in any quantity, including residue and seeds; possession or use of prescription drugs without a valid/current medical prescription; use of prescribed medication not as directed. If illegal drugs are found in a common area of a residence hall room or apartment, everyone in that room or apartment is subject to disciplinary action. *(Level 2)*

- In Addition: If a visitor to a residence hall room or apartment is found to have illegal drugs in their possession, the student occupant sponsoring that visitor will lose the privilege of living on campus. If that visitor is a Martin student the sanction below will apply to that student and the host student.

- **Drug Paraphernalia:** Drug paraphernalia is prohibited on campus (including possession in one’s room, on one’s person, in personal belongings, or in one’s vehicle). Paraphernalia may include, but is not limited to, marijuana/crack pipes, bongs, homemade devices used as bongs, rolling papers, roach clips, shredded cigars (blunts), smoke masking devices, and any apparatus containing drug residue. *(Level 2)*

- **Distribution/Intent to Distribute:** The selling, bartering, exchanging, and giving away controlled or illegal substances to any person is prohibited. Prescription drugs are to be used only by the person whose name is on the prescription label. This also includes if the school becomes aware that you have been convicted of possessing or selling illegal drugs while enrolled at MMC. *(Level 3)*
Defamation of Character

- Defamation is defined as any intentional false communication, either written or spoken, that harms a person’s reputation; decreases the respect, regard, or confidence in which a person is held, or induces disparaging, hostile, or disagreeable opinions of feelings against a person. *(Level 1 or Level 2)*

Destruction of Property

- The defacing or destruction of public or private property is prohibited. *(Level 1, Level 2, or Level 3)*

Disorderly or Disruptive Conduct

- This includes any behavior, which is disorderly, disruptive, or disturbs the peace. This includes lewd or indecent behavior; any obstruction or disruption of teaching, study, research, administration, conduct proceedings, other College activities, or other non-college activities on College premises. Including, but not limited to, excessive noise; public urination or defecation; cursing; horseplay, practical jokes, hiding from university officials, hall sports and general annoyances. *(Level 1 or Level 2)*

Disrespect

- Showing rudeness and disrespect towards faculty and staff (including Residential Life Staff) is prohibited. If a college employee feels a student has been disrespectful, the student may be turned in to the Vice President of Student Affairs. *(Level 1 or Level 2)*
Student Life Code of Conduct

Electronic Device Policy

- Martin Methodist College Students are expected to uphold high standards of personal integrity while using camera phones and other electronic recording devices. The college strictly prohibits the use of camera phones and other recording devices in any manner which violates or compromises the core values of the college. Martin Methodist College follows the two party rule, meaning that no person shall record another without their knowledge and consent. *(Level 1 or Level 2)*

Encourage, Influence, or Support an Individual to Violate College Policy

- This includes but is not limited to any action on the part of an individual to encourage or coerce another individual to violate a college policy, to include providing support in any way for the individual who violates policy before, during, or following the violation. This may also include any individual who is aware of but takes no action to address a real or potential policy violation. Should a student become aware of a real or potential policy violation, the student shall advise the offender or potential offender that such action is a policy violation, inform a College Official about the violation, and not become a participant in the violation by remaining present when the violation is occurring. *(Level 1 or Level 2)*
Student Life Code of Conduct

Categories

Failure to Comply

• **Failure to comply with a College Official/Employee:*** This includes failure to comply with any reasonable request made by a College Official/Employee in the performance of his/her duties, and the failure to identify oneself/provide a valid college ID to a College Official/Employee when asked to do so. *(Level 1 or Level 2)*

• **Failure to Comply with Educational Sanction:** This includes failure to comply with the terms of any educational sanction imposed in accordance with the Student Code of Conduct or Title IX Policy (formal or informal resolution). Students must complete any and all sanctions assigned to them by the due date given. A student who does not complete any sanction by the due date and to the satisfaction of the conduct body or Vice President of Student Affairs will be out of compliance and held “Responsible” for violating this policy. It is the responsibility of the student to notify the conduct body of any extenuating circumstances that could prohibit the completion of a sanction by the due date given. The Vice President of Student Affairs or designee may take administrative action to either extend the sanction deadline or to impose a new sanction or conduct status, up to and including suspension. This action and new sanction(s) and/or status would be imposed without neither a new conduct conference nor be subject to the regular appeals process. *(Level 1 or Level 2 or Level 3)*
Student Life Code of Conduct

Categories

Failure to Observe Traffic/Parking Regulations
- Violations of parking regulations may result in the revocation of parking privileges, subjecting the student’s vehicle to towing at the student’s expense. Traffic/Parking violations are subject to citation – repetitive violations may result in the revocation of campus parking privileges. Vehicles parked in a fire zone will be immediately towed. (Level 1 or Level 2)

Failure to meet Financial Obligations
- Students are expected to promptly pay all college financial obligations. Failure to meet these financial obligations on time may result in not being allowed to register, graduate, or receive a transcript of credits until all accounts are settled. All students must be registered before being admitted to classes.
Student Life Code of Conduct

Categories

Fire and Safety

- **Arson**: This includes starting or attempting to start a fire anywhere on College property, preventing or attempting to prevent the reporting of a fire, or preventing or attempting to prevent the extinguishing of a fire. *(Level 3)*

- **Creating a Safety, Health, or Fire Hazard**: This includes, but is not limited to, actions resulting from ‘pranks’, improper disposal of trash, failure to evacuate during a fire alarm (either planned drill or otherwise), etc. *(Level 2 or Level 3)*

- **Abuse of Fire and Safety Equipment**: This includes the setting of false alarms, misuse of emergency exits, and tampering with fire equipment, extinguishers, and alarms. This also includes the tampering with, interference of, or damaging of security and safety equipment (cameras, locks, etc.) *(Level 2 or Level 3)*

- **Fireworks - Possession or use**: This includes the possession or use of any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, or detonation, including but not limited to firecrackers, bottle rockets, roman candles, M-80s, etc. *(Level 2 or Level 3)*

- **Safety and Security Violations**: Disabling or damaging any fire or safety equipment (including but not limited to the security camera system, smoke detectors, lights in hallway and fire extinguishers) is prohibited.
Student Life Code of Conduct

Categories

Forgery, Alteration, or Misuse
- Forgery or alteration of Martin Methodist College documents or records is prohibited. (Level 1 or Level 2)

Gambling
- Illegal gambling or wagering is prohibited on College property or at College-sponsored functions. (Level 1)

Gang Activity
- This includes any activity which could lead college officials to reasonably believe that such behavior, apparel, activities, acts or other attributes are gang related and would materially interfere or substantially disrupt the college environment or activity and/or educational objectives. (Level 2 or Level 3)
Harassment

- This includes harassing, bullying, abusing or threatening another by means other than the use or threatened use of physical force, including, but not limited to, face to face communication, phone call, text message, e-mail communication, or social media outlets (ex: Facebook, Twitter, Snapchat, Instagram, etc.) that includes one or more of the following: speech or action that in and of itself inflicts injury or tends to incite a disruption, or causes substantial disruption, or reasonably causes fear of great harm, or that interferes with the educational environment or disrupts college programs; speech or actions that interfere with ingress and/or egress on campus, speech or actions which are obscene. Bias-related incidents, including instances of hate speech, may qualify as harassment under this Code. *(Level 2 or Level 3)*
Student Life Code of Conduct

**Categories**

**Hazing**
- This includes any act which endangers the mental or physical health or safety of a student or which destroys or removes public or private property for the purposes of initiation, acceptance, admission into, affiliation with, or as a condition for the continued association in a group, organization, or team. The express or implied consent of the victim will not be a defense. *(Level 2 or Level 3)*

**Personal Conduct**
- Indecent exposure, nakedness, showing pornographic films in public view, unlawful assembly, and offensive language or behavior is prohibited. *(Level 1, Level 2 or Level 3)*

**Pets**
- To maintain an environment that enables collegiate work to be done with minimal distraction and disruption, shows respect and courtesy for students and employees and reduces the potential of health risk and facility damage, pets may not be brought into the workplace, with the exception of service animals. Emotional support animals may only be brought in to residential facilities. If an employee or student has concerns about pets in college facilities, he or she should contact his or her immediate supervisor, residential life, or Human Resources. Pet owners who choose to walk their animals on campus are responsible for cleaning up after their pets. *(Level 1 or Level 2)*
Retaliation

- Engaging, encouraging others, or directing others in an adverse action or threat of an adverse action against a complainant, respondent, or any individual or group of individuals involved in the complaint, investigation, and/or resolution of an allegation of a violation of College’s Student Code of Conduct, Title IX policy, or other College policy; including any individual who attempts to intervene, prevent, or report behavior prohibited by these policies. Retaliation can be committed by an individual or group of individuals, not just a complainant or respondent. Examples of retaliation include, but are not limited to, threats, intimidation, pressuring, continued harassment, violence, or other forms of harm to others. (Level 2 or Level 3)
Student Life Code of Conduct

Categories

Sexual Harassment

- It is the policy of Martin Methodist College that no member of the MMC community: students, faculty, administrators, staff, or third parties – may sexually harass any other member of the community. Sexual harassment is any unwelcome conduct of a sexual nature including sexual advances, requests for sexual favors, and other verbal, nonverbal or physical conduct of a sexual nature when:
  - submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic advancement;
  - submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual;
  - or such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or learning environment.

- It is the policy of Martin Methodist College to comply with the Title IX of the Education Amendments of 1972. Title IX prohibits retaliation for asserting or otherwise participating in claims of sex discrimination.
Student Life Code of Conduct

Categories

Sexual Harassment

- Individuals who believe they have been sexually harassed are encouraged to report it promptly, to the Vice President of Student Affairs, and make an informal or formal complaint. The right to confidentially will be respected in both informal and formal procedures. If a student is found to make a false accusation of sexual harassment, then that student will be referred for counseling.

- In campus disciplinary cases both the accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding and the victim will be informed of any sanctions imposed against the accused.

- An individual found to be guilty of sexual harassment, after a thorough investigation, is subject to disciplinary actions for violations of this policy. Sanctions may include suspension or expulsion from the college.

- (See Title IX Policy for the Response Plan for violations of Sexual Harassment Policy)
Student Life Code of Conduct

**Categories**

**Sexual Harassment**

- **Sexual Assault** – This includes any action that constitutes sexual abuse, including but not limited to date/acquaintance rape, any sexual act against another person forcibly (against that person’s will), or not forcibly and against that person’s will when that person is unable to give consent [See definition of “Consent”].

- **Non-Consensual Sexual Contact** – Any sexual contact that occurs without consent [See definition of “Consent”]. Examples of sexual contact include but are not limited to: the intentional touching of a person’s genitalia, groin, breast, or buttocks or the clothing covering any of those areas, or using force to cause the person to touch his or her own genitalia, groin, breast, or buttocks.

- **Sexual Exploitation** - taking sexual advantage of another person without effective consent. This includes but is not limited to: causing the incapacitation of another person for a sexual purpose; causing the prostitution of another person; electronically recording, photographing, or transmitting intimate or sexual utterances, sounds, or images of another person; allowing third parties to observe sexual acts; engaging in voyeurism; distributing intimate or sexual information about another person; and knowingly transmitting a sexually transmitted infection, including HIV, to another person.

- **Sexual Harassment** – includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment or academic success; 2) submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual; or 3) such conduct has the purpose or effect of substantially interfering with an individual’s work or academic performance or creating an intimidating, hostile or offensive work or educational environment.

- **Sexual Coercion or Intimidation** – an unusual amount of pressure or threat to engage in sexual activity. Coercion begins not when one makes a sexual advance, but when one realizes that the other person does not want to be convinced and he or she continues to push.

- **Intimate Partner and Relationship Violence** – This violation includes actions often referred to as Domestic Violence or Dating Violence. This includes coercion, abuse, or violence between partners in a personal, intimate relationship. This behavior can be physical, sexual, economic, verbal, emotional, or psychological actions or threats of actions that influence another person. Incidents can occur between current or former romantic or intimate partners who have dated, lived together, or been married. Relationship abuse and violence can occur between persons of the same or different gender.

- **Stalking**

- Violations of the Sexual Harassment, Discrimination, and Misconduct policy can be Level 1 or Level 2 or Level 3
Student Life Code of Conduct

Categories

Smoking, Tobacco Products
- Martin Methodist College is a tobacco free campus. Smoking or using tobacco products (such as chewing tobacco) is prohibited. (Level 1)

Theft
- Taking or removal of college, public, or private property (including textbooks) is prohibited. (Level 2 or Level 3)

Trespassing
- Unauthorized entry into a college building or motor vehicle is prohibited (Level 1, Level 2, or Level 3)

Unauthorized Possession/ Duplication/ Use of College keys or Student ID
- This includes the possession of unauthorized keys (including possession of room keys/cards not issued to holder). Students are reminded that keys/ID cards are not to be given to anyone else for any reason. (Level 1 or Level 2 or Level 3)
Student Life Code of Conduct

**Categories**

**Unlawful Assembly**

- Violent protests or similar activities that disrupt the normal operation of the college are prohibited. Disruptive actions include, but are not limited to, the following: the support of an activity through unlawful means; interference with accepted functions of the college; unauthorized occupancy of college facilities or blocking access to or from such areas; infringing on the rights of students, faculty, staff, or authorized persons to gain access to any college facility. *(Level 2 or Level 3)*

**Weapons**

- Weapons of any kind, including but not limited to handguns, rifles, shotguns, other firearms, fixed blade knives or any folding knife with a blade greater than four inches, stun guns/tasers, potato cannons, paintball guns, pellet/BB guns, martial arts weaponry, bows, slingshots, brass knuckles, fireworks or explosive devices, spears, and any other devices used in game or sporting activities, including ammunition, arrows, or other types of projectiles associated with such items, are prohibited on all Martin Methodist College property. This prohibition is to be interpreted in the broadest sense to include any such weaponry and further extends to “toy” or facsimiles thereof that can cause bodily harm or threat to other persons. A gun permit does not authorize a staff member, faculty member, student, or visitor to bring firearms into Martin Methodist College buildings or facilities under any circumstances. This policy applies to all employees (faculty and staff), contractors, students, and visitors. *(Level 2 or Level 3)*
Student Life Code of Conduct

Sanctions

Conference Outcomes

• A student found responsible for a violation of a policy will be assigned a conduct status and educational sanction(s) as well as assessed a conduct fee. Additionally, notification of the outcome will be given to appropriate individuals as described below. Each student’s case is decided based on its own merit and the conduct body has the authority to adjust a status and/or sanction under extenuating circumstances.

• For violations that involve local, state, and/or federal law, conduct decisions and outcomes issued by Martin Methodist College are separate and distinct from any legal action taken by the courts. As the Martin Methodist College Conduct system operates under the guidelines of ‘preponderance of evidence’ [see Student Conduct Process: Evidence], it is possible to be found not guilty or have the case dismissed in the courts and be found responsible in the Martin Methodist College student conduct process.

• The following are each considered a conduct status, from least severe (Written Warning) to most severe (Expulsion). A student found responsible for violating a policy will be placed on one status. A student may be placed on any status regardless of his/her previous conduct history, or lack thereof, and which is the most appropriate status in relation to the policy found responsible for violating. Being found responsible for a subsequent violation may result in being placed on a more severe status. A Conduct Status may be appealed in accordance with the Appeal process outlined in the Student Conduct Process section.
Student Life Code of Conduct

Sanctions

• Written Warning
  • Written warnings are issued to warn students that further misconduct may result in more severe conduct status or higher-level educational sanctions. Since a student’s conduct history is cumulative, a student who is on a Written Warning status and allegedly violates the Student Code of Conduct may have the violation handled as if it were a higher level than listed in the Student Code of Conduct (i.e. a second Level 1 Alcoholic Beverages violation may be handled like a Level 2 case). Written Warnings are in place for an indefinite amount of time. (Level 1)

• Conduct Probation
  • Conduct probation may be issued for any violation of college policy. Conduct probation is for a specified period of time. Any violation that occurs during this probationary period will result in a more severe sanction up to and including separation from the college. (Level 2 or Level 3)
Student Life Code of Conduct

Sanctions

• There are multiple ways a student could be separated from Martin Methodist College. If any of the following apply, a suspension or expulsion could occur:

  • being found responsible for a Level 3 violation of any kind;
  • being found responsible for multiple violations in one incident or over the course of several incidents;
  • being found responsible for a second controlled substances violation; and/or,
  • failure to comply with an educational sanction by the due date.
Student Life Code of Conduct

Sanctions

• Suspension/Deferred Suspension

Suspension indicates a separation of a student from the College for a specified time, after which the student may apply for readmission to the College. The effective start and end date of the suspension is determined by the conduct body. The student will be eligible to apply for readmission and be re-enrolled after the end date. Applications for readmission are not guaranteed. If a suspension is put in place immediately, the student is typically given 24 hours to remove themselves and their belongings from campus housing, unless the Vice President for Student Affairs or designee deems that the student’s presence on campus during that time would be detrimental to the student or campus community. The student is expected to take care of financial and academic matters as well as personal belongings during that time. A suspension may also be Deferred until a later date, typically the day after the last day of the current semester. The conduct body may determine that the student’s conduct was severe enough to warrant a separation from the college, but there are mitigating circumstances to allow the student to continue being enrolled for the current semester. A student on Deferred Suspension may attend classes, activities, and events on campus (unless additional sanctions limiting participation are assigned by the conduct body). If a student is found responsible for violating College policy while on Deferred Suspension, he/she will be immediately suspended (or expelled, if decided by the conduct body) from the College. While on suspension, a student is considered persona non grata and may not be on Martin Methodist College property or attend events sponsored by the College. A student not adhering to this persona non grata policy will face legal implications, including arrest. The student is considered persona non grata until he/she re-enrolls in the College. [see the Trespass (persona non grata)] (Level 3)
Student Life Code of Conduct

Sanctions

- Expulsion
  - Expulsion is the permanent separation of the student from the College and its premises. It is the most severe status that the college imposes. An expulsion is effective immediately upon communication to the student. At the time of expulsion, the student is given up to 24 hours to remove themselves and their belongings from campus housing, as deemed appropriate by the Vice President for Student Affairs or designee. The students is expected to take care of financial and academic matters as well as personal belongings during that time. An expelled student is considered *persona non grata* and no longer allowed to be on Martin Methodist College property or attend events sponsored by the College. A student not adhering to this *persona non grata* policy will face legal implications, including arrest. [see the Trespass(*persona non grata*)] (Level 3)
Student Life Code of Conduct

Educational Sanctions

- Counseling Referral
  - A counseling assessment may be required in an effort to help the student address issues he/she may be facing. The student may utilize counseling services available at Martin Methodist College or, at the student’s own expense, through other licensed mental health care professionals. Proper release paperwork must be signed by the student to allow the Office of Student Affairs to verify the assessment has taken place. The counselor may recommend further sessions with the student and it is the choice of the student whether they continue with those services. (*Level 1 or Level 2 or Level 3*)

- Education Workshop
  - The College offers several educational workshops that aim at educating students about certain topics, including alcohol, conflict management, anger issues, and decision-making. (*Level 1 or Level 2 or Level 3*)
Student Life Code of Conduct

**Educational Sanctions**

- **Loss of Privileges**
  - A student may forfeit certain privileges for a specified amount of time due to a failure to properly utilize those privileges. Examples of privileges include but are not limited to: housing, visitation; parking; participating in campus activities, intramurals, athletic events; and utilizing campus facilities. *(Level 2 or Level 3)*

- **Fines and Restitution**
  - The student is required to make payments to the College or other persons, groups, or organizations for damages incurred as a result of an act of prohibited conduct, or for non-compliance with college policies. Any restitution assessed to student accounts must be paid in full prior to the release of grades or transcripts. Unpaid restitution is subject to collections as allowed by law. Students should note that financial aid cannot be used to pay restitution assessed due to a student conduct action. *(Level 1 or Level 2 or Level 3)*
Student Life Code of Conduct

Educational Sanctions

• Restorative Justice
  • A restorative justice experience will focus on restoring to the victim what was taken and/or repairing harm imposed on a community. The victim could be an entire community or specific students, staff or faculty. Examples of restorative justice include restorative justice circle (discussion between the student and victims), community service related to nature of the incident (up to 40 hours), community commitment, presenting a program related to the nature of the incident, establishing a mentoring relationship with a faculty or staff member, or shadowing staff/faculty during specified activities. *(Level 1 or Level 2 or Level 3)*

• Discretionary sanctions
  • Students may be assigned community service hours up to 40 hours (e.g., with a charitable organization, church ministry, or campus office), required to see a counselor or attend programs, or given other assignments, as deemed appropriate to the particular violation of the standards of conduct. *(Level 1 or Level 2 or Level 3)*

• Written Reflection
  • This sanction may be imposed on a student with an expectation that the student will take time to reflect on their choices and the consequences associated with those choices through written reflection. *(Level 1 or Level 2 or Level 3)*
Serving as an Advisor
Advisor’s Role

Federally Mandated
- Be present at live hearings
- Ask questions of parties during live hearings

Student Support
- Be present at meetings/interviews
- Walk student through process
- Encourage support services & resources
- Request breaks when needed
- Assist in processing
- Advocate for student well-being & a timely process
Role in Title IX Policy

• Complainants and Respondents are entitled to be accompanied and assisted by one Advisor of their choosing at any meetings or investigation interviews.

• Advisors are required for hearings.

• Complainants and Respondents may choose any person to serve as their Advisor, but accommodations, including scheduling of interviews or hearings will not be made for any advisers, including parents, guardians, or attorneys, if they unduly delay the process.

• No training or qualification is necessary for a person to serve as an Advisor.

• A party may elect to change Advisors during the process, and is not obligated to use the same Advisor throughout.

• The parties are expected to inform the investigators of the identity of their Advisor at least 1 business day before the date of their first meeting with investigators (or as soon as possible if a more expeditious meeting is necessary or desired). The parties are expected to provide timely notice to investigators if they change Advisors at any time.

• If a party does not have an Advisor present at the live hearing, the College will provide an appropriate Advisor, free of charge to the party.
Role in Title IX Policy

1. In Interviews and Investigations:
   - Advisors may not participate in the process or speak on behalf of the Complainant or Respondent during interviews, although they may ask to suspend any meetings or interviews briefly to provide consultation.
   - Advisors are expected to refrain from interference with the College’s investigation and resolution.
   - Any Advisor who steps out of their role will be warned once and only once. Advisors disrupting the interview will be asked to leave. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the Advisor will be asked to leave the meeting.
   - When an Advisor is removed from a meeting, that meeting will typically continue without the Advisor present.
   - Subsequently, the Title IX Coordinator will determine whether the Advisor may be reinstated or replaced by a different Advisor.

2. In Live Hearings:
   - Advisors may ask either party and any witnesses all relevant questions and follow-up questions, including those challenging credibility.
   - Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party’s Advisor of choice and never by a party personally.
   - Only relevant cross-examination and other questions may be asked of a party or witness.
Role in the Hearing

• Advisors of Complainants and Respondents have the right to ask questions and follow-up questions to, or “cross-examine”, the other party and all witnesses during the live hearing.

1. Any cross-examination at the live hearing must be conducted directly, orally, and in real time by the party’s Advisor of choice and never by a party personally.
2. All questions must adhere to guidelines outlined in Section IX. E. 1.
Section IX. E. 1.

- Only Relevant cross-examination and other questions may be asked of a party or witness.

- Questions that test credibility will be allowed, but intimidating questioning tactics will not be allowed.

- Before any question is answered, the Decision Maker must first determine whether the question is Relevant and explain any decision to exclude a question as not Relevant.

- Questions and evidence about the Complainant’s sexual predisposition, prior sexual behavior, or similar questions are not Relevant, unless such questions and evidence about the Complainant’s prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to prove Consent.
Role in the Hearing

• Advisors of Complainants and Respondents have the right to ask questions and follow-up questions to, or “cross-examine”, the other party and all witnesses during the live hearing.

1. Any cross-examination at the live hearing must be conducted directly, orally, and in real time by the party’s Advisor of choice and never by a party personally.
2. All questions must adhere to guidelines outlined in Section IX. E. 1.
3. If a party does not have an Advisor present at the live hearing, the College will provide an appropriate Advisor, free of charge to the party.
Rules of Decorum

• No surnames
• Must be recognized by Decision Maker before speaking
• No intimidating tactics or interrupting
• No profanity, gestures, or verbal signaling
• Be concise
• No compound questions
• Expectation of conduct during breaks
• May be removed
Supporting Students

- Be present at meetings/interviews
- Walk student through process
- Encourage support services & resources
  - Supportive Measures are available to (a) restore/preserve educational access, (b) protect safety, and (c) deter sexual harassment. These are not punitive or disciplinary, and are as confidential as possible.
- Request breaks when needed
- Assist in processing
- Advocate for student well-being & a timely process
Trauma & Memory
The Impact of Trauma on Brain, Behavior and Memory

- [https://www.pathlms.com/nacua/courses/9173/sections/12955/video_presentations/119592](https://www.pathlms.com/nacua/courses/9173/sections/12955/video_presentations/119592)

- Begin at 10:01
  - Joy Cunningham
  - Jim Hopper