

Marywood University

Policies and Procedures

Nondiscrimination and Complaint Procedures Policy of Marywood University

(Formerly known as the Nondiscrimination and Complaint Procedures Policy last updated 11/10/20)

Policy Statement:

Marywood University (the “University” or “Marywood”) “honors the uniqueness and dignity of each human person” (Core Values of Marywood University, Respect). The University declares and affirms a policy of equal educational and employment opportunity and nondiscrimination in its educational programs and all other activities that it operates both on and off University property. Marywood is committed to maintaining a comfortable, healthy and safe learning, living and working environment for all members of the Marywood community. Marywood does not condone and will not tolerate discrimination, harassment, or assault based on race, sex (including sexual harassment, sexual violence and pregnancy), color, gender identification and status as a transgender or transsexual individual, sexual orientation, national or ethnic origin, age, creed, ancestry, religion, disability, marital status, citizenship, genetic information, military/veteran status, use of a guide or support animal, or any other characteristic protected by applicable federal, state, or local law (“Protected Characteristics”). These are explicit civil and legal applications of the formulation of religious beliefs already cherished in Marywood University’s Mission, Core Values, and practices.

The term “harassment” in this Policy means unwelcome and offensive conduct based on one’s Protected Characteristic. Examples of harassment include, but are not limited to, verbal (including improper joking or teasing), written or physical conduct that denigrates or shows hostility or aversion towards an individual because of any Protected Characteristic, and that (1) has the purpose or effect of creating an intimidating, hostile, or offensive environment as defined by law; or (2) has the purpose or effect of unreasonably interfering with an individual’s work or educational performance; or (3) otherwise adversely affects an individual’s employment or educational opportunities. Such conduct includes, but is not limited to, slurs, epithets, threats, derogatory comments, unwelcome jokes, teasing, and similar conduct whether written, verbal or physical. Harassment is not limited to only behavior that is sexual in nature, and it can occur regardless of the gender of either the harasser or the victim.

Marywood University will make reasonable accommodations to known physical or mental limitations of otherwise qualified individuals with disabilities unless doing so would impose an undue hardship on the University. Any person who believes they may require such accommodation should contact the Director of Student Disability Services (for students) or the Executive Director of Human Resources (for employees).

Scope of this Policy

To the greatest extent permitted by law, this Policy applies to all faculty members, staff, administration, employees, students, volunteers and visitors on campus property, at off-campus University-sponsored events, including, but not limited to, academic and educational programming, internships, study abroad programs, athletic events, and all other University programming, off-campus satellite branches. In addition, this Policy applies to the conduct of all these individuals if it has a negative effect on the University's educational environment, regardless of whether the conduct occurred on or off-campus.

Marywood University does not discriminate on the basis of sex in its educational programs nor in other activities operated by the University. As required by Title IX, and specifically 34 C.F.R. Part 106.9, the University shall not discriminate in such a manner. This protection extends to employees of and applicants for admission to Marywood. Inquiries concerning the application of Title IX should be directed to the Title IX Coordinator, or a Deputy Title IX Coordinator for the University, or to the Assistant Secretary for the Office of Civil Rights of the Department of Education, Philadelphia, Pennsylvania (see below for contact information).

Similarly, any individual who believes they have been subject to discrimination on the basis of sex is encouraged to file a complaint consistent with the *Marywood University Title IX Sexual Harassment and Community Standards Sexual Misconduct Policy* ("Title IX Policy"). The full version of the Title IX Policy can be found [here](#). For all other conduct and complaints, this Policy applies.

Regardless of whether this Policy or the Title IX Policy applies, anyone wishing to make a report of conduct they believe may violate either policy may and should report the incident as soon as possible to the Executive Director of Human Resources or the Executive Director of Institutional Equity and Inclusion/Title IX Coordinator.

Contact Information

Individuals reporting an incident they believe may be a violation of this Policy should contact one of the individuals below:

Dr. Yerodin Lucas, Executive Director of Institutional Equity & Inclusion/Title IX Coordinator
ylucas@marywood.edu
570-340-6042
Marywood University
Liberal Arts Center, Room 218
2300 Adams Avenue
Scranton, Pennsylvania 18509

Molly Baron, Executive Director of Human Resources
Deputy Title IX Coordinator - Human Resources
mbaron@marywood.edu
570-340-6053
Marywood University
Liberal Arts Center, Room 86

2300 Adams Avenue
Scranton, Pennsylvania 18509

Anonymous Reporting

Anyone wishing to make an anonymous report may call the University's Whistleblower Hotline at 855-278-2074 and/or use the Internet-based reporting system at <http://marywood.ethicspoint.com>. See the University's *Whistleblower Policy* for more details. [Marywood University Whistleblower Policy](#)

Individuals to whom you also may direct inquiries or file complaints:

Assistant Secretary for Civil Rights
U.S. Department of Education
Office for Civil Rights
400 Maryland Avenue, SW
Washington, D.C. 20202-1100

Telephone: 800-421-3481

Email: OCR@ed.gov

External Resources

Marywood encourages complainants to pursue criminal charges against the person(s) believed to have committed an act in violation of this Policy. The University may be able to direct complainants to the appropriate law enforcement agency to begin the process of filing a criminal complaint. University administrators will notify the appropriate law enforcement officials in accordance with any obligations under federal, state, and local laws. Police investigation and legal prosecution are conducted outside of and in addition to University procedures. Criminal charges and a disciplinary charge may be pursued at the same time. The complainant need not pursue criminal charges, however, to file a complaint with the University. Should the complainant elect to proceed with both a criminal charge and a disciplinary charge, the University will comply with any applicable judicial no-contact, restraining, and/or protective order. Marywood will cooperate with law enforcement agencies to the best of its ability. During the investigation process, the University will implement necessary supportive measures and provide timely updates on the status of the investigation, if required.

Complainants are encouraged to seek assistance both on-and off-campus, as needed, to address issues stemming from the incident. A list of services both on-and off-campus is included below.

Responsible Employees and Confidentiality

Each employee of Marywood University has a duty to report all incidents that may be in violation of this Policy. University faculty members, staff, and administrators who know, or in the exercise of reasonable care should have known, of conduct that may be a violation of this Policy and fail to handle the report of the incident appropriately may be subject to disciplinary action up to and including termination.

For anyone who is not an employee of the University who becomes aware of a potential violation of this Policy, the University strongly encourages reporting.

Regarding a person who is the recipient of conduct that may be in violation of this Policy, the University understands they may wish to keep the incident confidential. As such, the University wants complainants and potential complainants to be aware of confidentiality and mandatory reporting requirements so they are able to make an informed decision regarding reporting the incident.

As an initial matter, for those complainants who wish to make a report but do not want the University to take any action, the University encourages them at least to consult with a professional counselor, medical professional, or ordained member of the clergy. At the University these individuals include licensed counselors in the Counseling/Student Development Center (acting in that capacity); licensed counselors in the Psychological Services Center (acting in that capacity); and the University Chaplain (acting in that capacity). Although the professional staff in the Student Health Services Center has a duty to report incidents in violation of this Policy, a complainant may request in writing when they first lodge their complaint that the staff withhold personally identifiable information concerning the individual(s).

Additionally, if the complainant wishes to remain anonymous, does not wish for an investigation to take place, or does not wish to pursue a formal complaint, the complainant may make such a request to the Executive Director of Institutional Equity and Inclusion/Title IX Coordinator or Executive Director of Human Resources. The University's response, however, may be limited, including not pursuing discipline because the University has an obligation to maintain a safe environment for all members of the University community. Thus, the University may not be able to fully honor a complainant's request as it may have an obligation to pursue an investigation without the complainant's cooperation. When evaluating such request, the Executive Director of Institutional Equity and Inclusion/Title IX Coordinator or Executive Director of Human Resources will examine certain factors, including, but not limited to, whether violence, weapons or alcohol were involved; one of the parties is a minor; there is a pattern of such behavior; or a continuing threat to the community exists.

Cases involving alleged conduct that may violate this Policy demand special attention to issues of privacy. In all cases, the University will take preventative measures to preserve confidentiality and privacy to the extent possible and permissible by applicable law.

Supportive Accommodations

The University will review with complainants their right to obtain assistance for supportive changes to academic, living, transportation, and working conditions. If the complainant requests such accommodation, and the accommodation is reasonably available or an equally effective other accommodation is available, then the University will take prompt action to implement the accommodation.

Examples of supportive accommodations include, but are not limited to, no contact orders, changes in academic or living situations as appropriate with an effort to minimize the burden on the complainant if possible, counseling, escort services, academic support, as well as the option to retake a course or withdraw from a course without penalty.

Definitions:

N/A

Procedures:

Complaint Procedures

Complaints made under this Policy should be made with the Executive Director of Institutional Equity and Inclusion/Title IX Coordinator or Executive Director of Human Resources. Once a report of an incident is made, the Executive Director of Institutional Equity and Inclusion/Title IX Coordinator or Executive Director of Human Resources will meet with the complainant to discuss the importance of preserving evidence, the right to file a criminal complaint, supportive accommodations, and the right to file a complaint with the University.

If the complainant chooses to file a complaint with the University, the individual may proceed formally or informally. Each option is outlined below. Regardless of which path the complainant chooses, the Executive Director of Institutional Equity and Inclusion/Title IX Coordinator or Executive Director of Human Resources will acknowledge in writing receipt of the complaint to the complainant and simultaneously notify the respondent of the complaint. Both notices will include the specific alleged offenses, the name of the investigator (if assigned) to the complaint, and a copy of this Policy (or link). Unless special circumstances exist, the University will notify the respondent of the name of the complainant.

Although neither party can be required to participate in the process, all parties are encouraged to participate to ensure an accurate and objective process and outcome. If a respondent chooses not to participate, the University will proceed with the investigation process without the respondent's participation.

Informal Complaint Procedure

In situations when the complainant elects to proceed informally, in which case the parties do not proceed through the University's formal resolution process, the Executive Director of Institutional Equity and Inclusion/Title IX Coordinator or Executive Director of Human Resources will determine the necessary steps needed to resolve the issue. The parties may elect to resolve the matter through mediation unless the situation involves sexual assault and/or sexual violence. If the complainant elects to proceed informally, they have the option at any time to stop the informal process and proceed through the formal process.

Formal Complaint Procedure

If the complainant decides to proceed formally, either initially or after opting out of the informal process, the complainant should submit within ten (10) calendar days a formal complaint, preferably in writing, to the Executive Director of Institutional Equity and Inclusion/Title IX Coordinator or Executive Director of Human Resources who originally fielded the complaint. The complaint must include detailed factual information concerning the incident(s) and should identify the action the complainant feels will remedy the situation. The Executive Director of Institutional Equity and Inclusion/Title IX Coordinator or Executive Director of Human Resources will appoint an investigator from a pool of trained faculty members, administrators or professional staff. Marywood shall ensure to the extent possible that there will be no real or perceived conflicts of interest by those handling the investigation.

Upon receiving a formal complaint, the investigator promptly will commence a thorough investigation. Investigations will be conducted as expeditiously as possible and the University will endeavor to

complete them within sixty (60) calendar days after the complaint, either formal or informal, is filed. This timeframe may vary, however, depending on a number of factors, including, but not limited to, confidentiality requests, the availability of witnesses, the scope of the investigation, and any unforeseen circumstances.

During the investigation, the investigator will update the complainant and respondent when and as appropriate and reasonable under the circumstances, typically within twenty (20) days.

The investigation may include, where appropriate, interviews with the complainant, the respondent, and witnesses identified by either party at the beginning of or during the course of the investigation, as well as the examination of documentation. Both parties are encouraged to present potential witnesses and relevant documentation.

Should the investigation include meetings with the complainant and/or the respondent, the complainant and the respondent are permitted to be accompanied by an advisor of their choice. Advisors may attend proceedings with their advisee but may only speak to their advisee. Advisors may not interrupt or otherwise disrupt proceedings. All communication throughout the entire investigatory process will be directed to the advisee.

The University cannot guarantee equal advisors. The University has counselors and other employees who may be able to assist in the proceedings, and upon request, the University will provide such assistance to either party. The University is not responsible for paying for the services of an attorney or other outside advisor.

Both parties are allowed to discuss and share information relating to their complaint with others that may support or assist them in presenting their case. Advisors are expected to keep all information shared private.

Individuals may request review of documents included within the investigatory file. Due to privacy issues, some of the documentation may be redacted prior to the request being honored. Requests to review documentation should be addressed to the Executive Director of Institutional Equity and Inclusion/Title IX Coordinator or Executive Director of Human Resources.

Upon conclusion of the investigation, the investigator will provide a written report of their investigation to the Executive Director of Institutional Equity and Inclusion/Title IX Coordinator or Executive Director of Human Resources. As appropriate, the Executive Director of Institutional Equity and Inclusion/Title IX Coordinator or Executive Director of Human Resources will share with the complainant and the respondent the outcome and/or conclusions rendered by the investigator. The complainant and respondent will have five (5) calendar days to provide feedback or any other response to the outcome and/or conclusions of the investigator.

If the respondent admits to the charges, or in instances where the investigator determines that no violation of the Policy occurred, the investigator and the Executive Director of Institutional Equity and Inclusion/Title IX Coordinator or Executive Director of Human Resources will determine sanctions and/or make other recommendations and then conclude the investigation.

In all other cases, the Executive Director of Institutional Equity and Inclusion/Title IX Coordinator or Executive Director of Human Resources will appoint a review panel composed ideally of three (3)

members, at a minimum two (2) members, from the pool of trained panelists. The review panel will meet with the investigator, who will present their findings to the review panel in person. The review panel may interview witnesses, including the complainant and/or respondent, or alternately may direct the initial investigator to interview additional persons. Both the complainant and the respondent may submit questions to the review panel for the review panel to ask of the other side.

The review panel will determine based on a preponderance of the evidence whether the respondent violated the Policy. The review panel will then provide conclusions and disciplinary recommendations to the Executive Director of Institutional Equity and Inclusion/Title IX Coordinator or Executive Director of Human Resources. After a decision is made concerning resolution of the complaint and any disciplinary actions to be imposed, the Executive Director of Institutional Equity and Inclusion/Title IX Coordinator or Executive Director of Human Resources will notify simultaneously the complainant and the respondent in writing of the outcome of the investigation. Such notification will include the allegations, findings based on a preponderance of the evidence, rationale, and sanctions in accordance with the Policy and applicable laws. The Executive Director of Institutional Equity and Inclusion/Title IX Coordinator or Executive Director of Human Resources will notify any other parties of recommendations assigned to them.

Sanctions

If the respondent is found responsible for violating this Policy, action will be taken to eliminate the discriminatory or harassing conduct, including, but not limited to, extending the supportive actions, as well as issuing a warning, a no contact order, suspension, transfer, discharge, or dismissal of the respondent. If it is determined that the complainant knowingly made a false complaint, the complainant shall be subject to disciplinary action. The University reserves the right to modify sanctions depending on the facts and circumstances of the particular incident.

Appeal

Either party, if not satisfied with the final decision of the hearing panel and the Executive Director of Institutional Equity and Inclusion/Title IX Coordinator or Executive Director of Human Resources will have ten (10) calendar days after receipt of the outcome to file an appeal for one of the following reasons:

1. Presentation of new evidence;
2. Allegation that relevant evidence was not considered;
3. Allegation of procedural error;
4. Disproportionate sanctions.

Appeals must be in writing and submitted to the Executive Director of Institutional Equity and Inclusion/Title IX Coordinator or Executive Director of Human Resources, who will determine within three (3) calendar days whether the appeal has merit based on one of the above- reasons. The Executive Director of Institutional Equity and Inclusion/Title IX Coordinator or Executive Director of Human Resources then will forward the written appeal to the President of the University. Within five (5) calendar days, the President will direct the appeal to the appropriate University body, described below. The appeals committee will have thirty (30) calendar days to review and make a recommendation to the President of the University. The appeals committee may decide, in their sole and absolute discretion, to review or decline to review the initial investigation as well as independently investigate the claim.

Within ten (10) calendar days after receipt of the recommendation from the appeals committee, the President of the University will provide a written response to both parties in the original complaint. The decision of the President of the University is final and binding.

Claims against Employees

For claims against Faculty Members, including Librarians, Administrators, Professional Staff, and Support Staff, the President of the University will appoint and convene a committee of five (5) employees composed of professional staff, administrators and/or faculty members who are independent of the claim.

Claims against Students

For claims against students, the President of the University will refer the appeal to the Vice President for Enrollment Management and Student Services who will convene an Appeal Board. The Appeal Board will review the complaint and make a recommendation to the Vice President for Enrollment Management and Student Services who will notify the President of the recommendation.

No Retaliation

Retaliation of any kind is prohibited. Anyone who in good faith reports conduct that they reasonably believe constitutes a violation of this Policy, or who cooperates and/or participates in an investigation of an incident under this Policy, shall not be subjected to retaliation. Any student complainant or student witness who believes they have been subjected to retaliation, should contact the Executive Director of Institutional Equity and Inclusion/Title IX Coordinator or Dean of Students as soon as possible. Any employee complainant or employee witness who believes they have been subjected to retaliation should contact the Executive Director of Human Resources. Anyone found to be in violation of this retaliation provision may be subject to disciplinary action. Further, individuals who knowingly make false reports may be subject to sanctions depending on the facts and circumstances of the particular incident.

Resources

A list of Marywood and community resources is available at the Office of Institutional Equity and Inclusion, Human Resources Office, Dean of Students' Office, the Student Health Services Office, the Office of Disabilities Services, and the Counseling and Student Development Center.

Students are encouraged to use the services of the Counseling and Student Development Center, the Student Health Services Office, and the Office of Disabilities Services on campus. Employees are encouraged to contact the University's Employee Assistance Program (EAP) or the Executive Director of Human Resources for a list of providers.

Related Policies:

N/A

Related Committees:

N/A

Policy History:

11/04/21 – The establishment of this policy was approved by the President of the University as recommended by the Policy Committee of the University at their 10/29/21 meeting. This policy replaces the Nondiscrimination and Complaint Procedures Policy dated 11/10/20 which was recommended for abolishment by the Policy Committee of the University at their 10/29/21 meeting, and approved by the President of the University on 10/29/21.

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POLICIES AND PROCEDURES**

**Mary Theresa Gardier Paterson, Esquire
Secretary of the University and General Counsel**